

PRESS RELEASE

Foreign Businessman Released from Detention in East Timor

JSMP

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A Chinese-Malay businessman being held in East Timor's Becora Prison pending police investigation of alleged criminal and border control offences was released last week following a successful Habeas Corpus action before the Dili District Court.

Wong Kee Jin, Director of the Singapore-based WGS Metal Enterprise company, had been held in the prison since 2 June this year under a preventive detention order issued by Investigating Judge, Joao Henrique de Carvalho, SH. However, following a habeas corpus action brought by Mr Wong's defence counsel, Benevides Correia Barros, Judge Rui Pereira dos Santos ordered on Tuesday of this week that Mr Wong should be released, finding that there had been irregularities in the conduct of an earlier hearing, and that there was no good reason to justify the continued detention of Mr Wong in the circumstances.

The case has been a high-profile one as it has highlighted the commercial risks and uncertainties associated with running businesses in East Timor. It has also highlighted ongoing concerns that the applicable UNTAET Regulations governing the issuance of detention orders by the Courts are not being followed.

Mr Wong's difficulties began on April 19 of this year when he was arrested and detained by police following a reported altercation at his Dili scrapyard with Secretary of State for Commerce and Industry, Arlindo Rangel and East Timor's Prime Minister, Mari Alkatiri. The company has since been closed by a Government directive, issued by Mr Rangel, on the grounds that it does not possess an East Timorese licence for the collection and export of scrap metal products and other recyclables.

Mr Wong claims that it has not been possible to obtain such a licence, as no mechanism for the grant of such licences by the East Timor Government presently exists. He does, however, have a licence issued by the former UNTAET administration for the collection of metal and plastic waste, which is stated to expire in September 2003. The Government asserts the UNTAET licence is now longer valid as the UNTAET administration lapsed on the expiry of the UNTAET mandate and grant of formal Independence to East Timor on 20 May 2002.

On 29 May, a Judge of the District Court issued a decision finding that Mr Wong's arrest and detention by police on April 19 was unlawful. However, on the same day, the same court issued a warrant authorising the re-arrest of Mr Wong on suspicion of the alleged illegal export of goods and breach of East Timor's border control laws. Mr Wong was re-arrested by police early the following morning.

On 2 June Mr Wong was brought before the Court for a Detention Review Hearing. Investigating Judge, Joao Henrique de Carvalho, SH issued a preventive detention order, pursuant to the UNTAET Transitional Rules of Criminal Procedure, authorising the continued detention of Mr Wong for a further 30 days, pending the outcome of continued investigation by police and public prosecutors.

In making his determination upon the Habeas Corpus application, and directing the release of Mr Wong last Tuesday, Judge Santos found a number of deficiencies in the conduct by Judge Carvalho of the earlier Detention Review Hearing. These included findings that:

" the Public Prosecutor had failed to request an expedited trial, and to issue an indictment and submit the case to court within 21 days of the suspect's arrest - as required by Section 44 of the UNTAET Rules,

" the use of the suspect's wife as a Chinese language interpreter during the Detention Review Hearing constituted a conflict of interest, and denied the suspect the right to an independent, Court-appointed interpreter - as guaranteed by Section 6.3 of the UNTAET Rules, and

" the order authorising police to seize the passport of the suspect was invalid in that no power lay with the Court to make such an order, in circumstances where the Court had also ordered the continued detention of a suspect.

Whilst Judge Santos found no fault with Judge Carvalho's exercise of his discretion to order the continued detention of the suspect, Judge Santos found on this occasion that, on consideration of the criteria prescribed in Section 21 of the rules, that there was no good reason to justify continued detention.

Judge Santos accordingly upheld the application for Habeas Corpus and ordered that Mr Wong be released from custody as soon as practicable.

In making his ruling, Judge Santos emphasised that he was not making any observation about the likely guilt or innocence of the suspect, nor should his rulings be interpreted as any criticism of the Public Prosecutor. He merely stated that Mr Wong should instead be released upon Substitute Restrictive Measures provided by Section 21 of the UNTAET Rules, conditional upon an understanding that Mr Wong would cooperate with police in the continued investigation of possible offences, and that he would not leave the territory of East Timor until the investigation was finalised.

In conclusion, Judge Santos also stated that his decision to release the accused in these circumstances also recognised the importance of encouraging foreign businessmen and investors to come to East Timor, secure in the knowledge that they would not be subject to arbitrary arrest or detention, and that the justice system in this country was one founded upon justice, fairness and respect for human rights.

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