

J. Y. Interpretation No.98 (October 17, 1962) *

ISSUE: Is the provision of the Criminal Code governing “combined punishment for multiple offenses” applicable to an offense committed after conviction of those prior offenses?

RELEVANT LAWS:

Articles 50 and 53 of the Criminal Code (刑法第五十條及第五十三條); Article 481 of the Code of Criminal Procedure (刑事訴訟法第四百八十一條).

KEYWORDS:

Combination of sentences for multiple offenses (數罪併罰), revocation of the probation (撤銷緩刑).**

HOLDING: The regulations governing “combination of sentences for multiple offenses” are not applicable to a defendant who committed another offense after he was convicted of those prior offenses. For those defendants who were sentenced to imprisonment for an offense committed while on probation, such term of imprisonment and any period of reimprisonment that the defendants were

解釋文： 裁判確定後另犯他罪，不在數罪併罰規定之列，雖緩刑期內更犯者，其所科之刑亦應於緩刑撤銷後合併執行。

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required to serve upon the revocation of their probation shall be executed concurrently.

REASONING: According to Article 50 of the Criminal Code, combined punishments are imposed on a defendant who is convicted of multiple offenses. The regulations governing “combination of sentences for multiple offenses” are not applicable to a defendant who committed another offense after he was convicted of those prior offenses. The subsequent sentence and the former sentence shall be executed concurrently. For those defendants who had intentionally committed an offense while on probation and were sentenced to a definite term of imprisonment, such term of imprisonment and any period of reimprisonment that the defendants were required to serve upon the revocation of their probation shall be executed concurrently. The judge does not need to decide the term of imprisonment pursuant to Article 53 of the Criminal Code and Article 481 of the Code of Criminal Procedure.

解釋理由書：查數罪併罰依刑法第五十條之規定，應以裁判確定前犯數罪者為限，倘為裁判確定後所犯，則與數罪併罰規定無涉，其所科之刑僅得與前科合併執行，其於緩刑期內更故意犯罪受有期徒刑以上刑之諭知者，應於撤銷前罪緩刑之宣告後合併執行其刑，無庸依刑法第五十三條刑事訴訟法第四百八十一條定其應執行之刑。