

1976 October 22

[TRIANTAFYLIDIS, P., STAVRINIDES, L. LOIZOU, JJ.]

CHRISTOS IOANNOU KEFALOS,

Appellant.

v.

THE POLICE,

Respondents.

(*Criminal Appeal No. 3705*).

*Criminal Law—Sentence—Obtaining money by false pretences—
Maximum sentence (three years) prescribed by law imposed—
Personal circumstances and past record of appellant—Seriousness
of offence—And need to protect society—Maximum sentence
quite properly imposed.*

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The appellant was sentenced to three years' imprisonment (maximum provided by the law) after he had pleaded guilty to the offence of obtaining money (C£ 185) by false pretences. He had nine previous convictions of the same nature in which he received sentences ranging from nine months to three years' imprisonment. He was married with 3 children but his wife had decided not to accept him back home any more, because she did not believe that there existed any longer any hope of the appellant reforming himself, and that she was looking herself after their children quite properly.

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Upon appeal against sentence, counsel appearing for the appellant referred to Thomas on Principles of Sentencing, p. 37 and submitted that the maximum sentence should be imposed only in the worse type of case.

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Held, dismissing the appeal, we agree with the proposition in Thomas on Principles of Sentencing (supra), but we do think that this is really a case which is one of the worse of its nature, both in view of the past record of the appellant and of the seriousness of the offence. We share the view of the learned trial Judge that society has to be protected as long as possible from

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this appellant and, therefore, it was quite proper, in our opinion, to impose on him the maximum sentence provided by law.

Appeal dismissed.

Appeal against sentence.

Appeal against sentence by Christos Ioannou Kefalos who was convicted on the 25th February, 1976, at the District Court of Larnaca (Criminal Case No. 1368/76) on one count of the offence of obtaining money by false pretences, contrary to sections 297 and 298 of the Criminal Code, Cap. 154 and was sentenced by Artemis, D.J. to three years' imprisonment. 5
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E. Efstathiou, for the appellant.

A. M. Angelides, Counsel of the Republic, for the respondents.

The judgment of the Court was delivered by:-

TRIANTAFYLIDIS P.: The appellant complains that the sentence of three years' imprisonment which was passed on him after he had pleaded guilty to the offence of obtaining money by false pretences is manifestly excessive and wrong in principle. 15

The facts of the case are, briefly, that the appellant obtained the amount of C£ 185 from the abbot of "Ayia Thekla monastery" by means of the false pretence that he was going to buy painting materials for the purpose of repairing the church of the monastery. 20

When he was sentenced there was taken into consideration, at his own request, another offence of obtaining C£ 5 by false pretences from somebody on the pretence that he was going to buy for him food-stuffs. 25

It has been contended on the appellant's behalf that it was wrong for the trial Court, no matter how serious were the offences for which he was sentenced, to have sent the appellant to prison for the maximum period provided by law, that is for three years, and, also, that the sentence is wrong in principle because, among other things, the appellant has had a very unfortunate life, starting with a very difficult childhood, and, as a result, he has become, as it appears from a medical report which was produced in the course of the hearing of this case, a psychopathic personality and has had to be detained on various occasions at the Athalassa Psychiatric Institutions. 30
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We might possibly have found valid the above arguments had

it not been for the very bad, indeed, previous record of the appellant, who has many previous convictions of the same nature; as it appears from a list, which we have before us, he was sentenced, *inter alia*, on October 15, 1971, to twenty months' imprisonment for obtaining money by false pretences, on 5 January 14, 1974, to three years' imprisonment for obtaining credit by false pretences, on February 21, 1974, to nine months' imprisonment for obtaining credit by false pretences, on May 9, 1970, to nine months' imprisonment for obtaining money by 10 false pretences, on June 4, 1970, to nine months' imprisonment for obtaining money by false pretences, on November 9, 1971, to one year's imprisonment for obtaining money by false pretences, on October 1, 1971, to nine months' imprisonment for obtaining credit by false pretences, on March 8, 1971, to eighteen 15 months' imprisonment for obtaining money by false pretences and on April 9, 1974, to two years' imprisonment for obtaining money by false pretences.

It has been submitted by counsel for the appellant that the maximum sentence prescribed by law for an offence should 20 be imposed only in the worse type of case, and we have been referred, in this respect, to Thomas on Principles of Sentencing, p. 37. We agree with this proposition, but we do think that this is really a case which is one of the worse of its nature, both in view of the past record of the appellant and of the serious- 25 ness of the offence for which he was punished on the present occasion. We share the view of the learned trial Judge that society has to be protected as long as possible from this appellant and, therefore, it was quite proper, in our opinion, to impose on him the maximum sentence provided by law.

30 We have not overlooked his mental affliction, but we think he will be better off, in this connection, if he receives any necessary treatment either in prison, or in hospital, pending the duration of his sentence, than if he is allowed to be out of prison, on his own; we have noted, in this respect, that, as it 35 appears from a social investigation report, though he is married, with three children, his wife has decided not to accept him back home any more, because she does not believe that there exists any longer any hope of the appellant reforming himself, and that she is looking herself after their children quite properly. 40

In the result this appeal is dismissed.

Appeal dismissed.