

STELIOS KYRIAKIDES,

*Appellant,*

v.

STELIOS  
KYRIAKIDES  
v.  
THE POLICE

THE POLICE,

*Respondents.*

(*Criminal Appeal No. 2940*)

*Criminal Law—Dentists—Assistant dentists—Practice of dentistry by unregistered person—Practice of dentistry by assistant dentist by authority and under the control and supervision of a dentist—The Dentists Registration Law, Cap. 249, (as amended by the Dentists Registration (Amendment) Law, 1962, Law No. 76 of 1962), sections 4(3) and (5), 18, 21—Conviction of the offence of practising dentistry without being a duly qualified medical practitioner—Appeal—Conviction upheld, notwithstanding assumptions made in favour of the appellant on the question whether or not he was, at the material time, an assistant dentist, within section 4(3) of the Law, because, in any event, the appellant was not working at the time under the supervision of a dentist as required by sub-section (5) of section 4 of the same Law.*

*Dentists—Dentistry—Practising dentistry—Assistant dentist—See above.*

*Dentistry—Practising—See above.*

**Appeal against conviction.**

Appeal against conviction by appellant who was convicted on the 30th June, 1967, at the District Court of Nicosia (Criminal Case No. 26772/66) on one count of the offence of practising in dentistry without being a duly qualified medical practitioner, contrary to sections 4, 18 and 21(1)(b)(3) of the Dentists Registration Law, Cap. 249 as amended by Law 76/62 and was bound over by Stylianides, D.J., in the sum of £50 for one year and he was further ordered to pay £6 costs for prosecution.

*L. Clerides*, for the appellant.

*J. Loucaides*, Counsel of the Republic, for the respondents.

1967  
Oct. 10

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KYRIAKIDES  
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The facts sufficiently appear in the judgment of the Court dismissing the Appeal.

VASSILIADES, P.: The judgment of the Court will be delivered by Mr. Justice Triantafyllides.

TRIANTAFYLLIDES, J.: The appellant appeals against his conviction, on the 30th June, 1967, of the offence of practising dentistry on the 26th October, 1966, without being a duly qualified medical practitioner ; he was charged under sections 4, 18 and 21 of the Dentists Registration Law, (Cap. 249), as amended by the Dentists Registration (Amendment) Law, 1962, (Law 76/62).

It has been common ground that the appellant is not a person registered, or entitled to be registered, as a dentist under the provisions of Cap. 249.

What has been in issue is whether or not the appellant was, at the material time, an assistant dentist, in the sense of sub-section (3) of section 4 of Cap. 249 ; and, if he was, whether he was doing dental work which an assistant dentist is entitled to do under sub-section (5) of section 4.

At the trial of the appellant—at the close of the case for the prosecution—his counsel submitted to the learned trial Judge that no *prima facie* case had been made out which the appellant should be called upon to answer. But, the trial Judge rejected this submission on the ground, mainly, that the appellant at the material time was not an assistant dentist ; he took the view that the assistant dentist's licence granted to the appellant by the Dental Council on the 13th April, 1967, and published in the official *Gazette* on the 20th April, 1967 (see Supplement No. 3, Notification 309), did not have a retrospective effect.

Counsel for the appellant did not then choose to make any defence, relying, as he was properly entitled to do, on the view that his client ought to have been found to be an assistant dentist on the 26th October, 1966.

Having been satisfied, on the evidence before him, that the appellant had, on the said date, been doing work in the cavity of the mouth of a patient, and being still of the view that the appellant was not then an assistant dentist, the trial Judge proceeded to find the appellant guilty as charged.

The appeal was based mainly on the contention that the appellant ought to have been found to be an assistant

dentist on the 26th October, 1966. At the very outset of the hearing before us counsel for the respondent stated to the Court that in his view this contention of the appellant was correct, because of the construction that, in his view, should be placed on sub-section (3) of section 4 of Cap. 249 and on the assistant dentist's licence granted to the appellant in April, 1967.

In view of this development, counsel for the appellant has invited us to order a new trial so as to enable the appellant to make his defence on the merits of the matter.

We decided, however, against such a course for the following reasons :

Even assuming—without deciding it—that the appellant should have been deemed to be, on the 26th October, 1966, an assistant dentist, and assuming further, in his favour, that the trial Court would find, at a new trial, that the dental work, in which the appellant was engaged on that date, was work of the nature which an assistant dentist is entitled under the Law to perform, the undisputed fact still remains that the appellant was engaged in dental work in the cavity of the mouth of a patient, at the clinic of a dentist, at a time when such dentist was absent from the clinic.

As sub-section (5) of section 4 of Cap. 249 provides that no assistant dentist shall be entitled to perform his duties unless he is acting by authority and under the control and supervision of a dentist, in his clinic, the absence of the dentist concerned from his clinic at the material time, renders it impossible in law to hold that the appellant was then working under the supervision of the dentist, in the sense of sub-section (5).

We have, therefore, reached the conclusion that the conviction of the appellant should be upheld notwithstanding the assumptions made in his favour as aforesaid ; and that no useful purpose could have been served by directing a new trial.

In the result this appeal fails and is dismissed accordingly.

*Appeal dismissed.*