

1980 January 18

[L. LOIZOU, DEMETRIADES, SAVVIDES, JJ.]

ANTONIS THEOCHAROUS IOSIFAKIS,

Appellant,

v.

THE POLICE,

Respondents.

(*Criminal Appeal No. 4090*).

Criminal Law—Sentence—Stealing—Nine months' imprisonment—Appellant's bad criminal record—And lenient treatment by Courts in the past—Married with two minor children and suffering from mental disturbances—Irritable and aggressive and exhibiting anti-social behaviour—Not a case in which Court of Appeal would be justified in interfering with sentence—Appeal dismissed.

The appellant pleaded guilty to the offence of stealing and was sentenced to nine months' imprisonment. The property stolen consisted of C£11,250 mils in cash, £100 in travellers' cheques, a watch and various other personal articles and belonged to a visitor to Cyprus. The appellant was 27 years old, married with two minor children and had 23 previous convictions many of which were similar and from which it appeared that he had been given every available opportunity by the Courts in the past. In the social investigation report he was described as irritable, aggressive, uncooperative and as exhibiting anti-social behaviour. During his service in the National Guard he was found to be suffering from mental disturbances as a result of which he was treated for short periods at the mental hospital.

Upon appeal against sentence:

Held, that though this Court has every sympathy for the appellant and his family this is not a case in which it would be justified in interfering with the sentence imposed as this would amount to disregarding completely its duty for the protection of the community; and that, accordingly, the appeal must be dismissed.

Appeal dismissed.

Appeal against sentence.

Appeal against sentence by Antonis Theocharous Iosifakis who was convicted on the 16th October, 1979 at the District Court of Larnaca (Criminal Case No. 5693/79) on one count of the offence of stealing, contrary to sections 255-262 of the Criminal Code, Cap. 154 and was sentenced by Constantinides, D.J. to nine months' imprisonment. 5

A. Vassiliadou (Mrs.), for the appellant.

A. PapaSavvas, Counsel of the Republic, for the respondents.

L. LOIZOU J. gave the following judgment of the Court. 10
This is an appeal against the sentence of nine months' imprisonment imposed on the appellant, after he pleaded guilty to the charge, by the District Court of Larnaca on 16th October, 1979 for the offence of stealing. He is 27 years old and married with two children, a boy of two years and a girl of 12 months. 15

The offence was committed on the 18th July, 1979, at Larnaca's Mackenzie Beach. The complainant, who was a visitor to Cyprus, went for a bathe. Before she went for a swim she left her handbag in a larger beach-bag. When she came out of the sea she found that the beach-bag together with all its contents were missing. Her handbag contained the sum of C£11.250 mils in cash, £100 in travellers' cheques, a watch, valued at £20 and various other personal items. She reported the matter to the police who, it would appear, suspected the appellant because he was earlier on seen in the area following the movements of bathers suspiciously; they traced him in a bus which was stationary nearby. He admitted the offence and delivered to the police the sum of £11.250 mils which he had on his person and also led them to the W.C. of the cafe where he had hidden the handbag and delivered it to them. 20
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In passing sentence the Court, at the request of the appellant, took into consideration another similar offence which he admitted to have committed at the same time and at the same place.

The appellant has a formidable list of previous convictions, no less than 23 in number, many of them similar, which he admitted. It appears from these previous convictions that he was given every available opportunity by the Courts in the past. On a number of occasions he was bound over, twice he was 35

placed under probation and on other occasions he was given suspended sentences. The terms of imprisonment which he served range from four to twelve months. The trial Court had before it a Social Investigation Report which we have also
5 perused with care. It appears from this report that the appellant, whilst serving in the National Guard, was found to be suffering from mental disturbances as a result of which he was treated for short periods at the mental hospital. Eventually
10 he was discharged from the army. He is described as irritable, aggressive, uncooperative and that he *exhibits* anti-social behaviour.

The learned trial Judge, in passing sentence, took all the above into consideration and exercising all possible leniency he imposed the sentence of nine-months' imprisonment.

15 We have carefully considered everything submitted by learned counsel for the appellant before us today. We have every sympathy for the appellant and his family but we do not think that this is a case in which we would be justified in interfering with the sentence imposed. We feel that this would amount to
20 disregarding completely our duty for the protection of the community.

As we have already indicated to learned counsel of the Republic appearing for the respondent, the prison authorities in collaboration with the Medical Services of the Republic should
25 see to it that if the appellant is still in need of medical treatment, such treatment should be afforded to him.

In the result this appeal is dismissed and the sentence imposed by the trial Court is affirmed.

Appeal dismissed.