

1982 July 6

[A. LOIZOU, SAVVIDES AND STYLIANIDES, JJ.)

NICOLAS PETROU HADJIMITSIS,

Appellant.

v.

THE POLICE,

Respondents.

(*Criminal Appeal No. 4324*).

Criminal Law—Sentence—Nine months' imprisonment for burglary and theft—Appellant 21 years old and with three previous convictions—Eight similar offences taken into consideration in passing sentence—Sentence upheld.

5 The appellant pleaded guilty of the offence of burglary and
theft of various articles, of a total value of £420 and was sen-
tenced to nine months' imprisonment. He was 21 years old
and single. He was born in England from Cypriot parents and
10 came to Cyprus as a visitor. The complainant knew the appel-
lant and a lady friend of his and extended to them hospitality.
The offence in question was committed when the appellant and
his wife were absent in England. In passing sentence the trial
Judge took into consideration eight other similar offences
15 committed by the appellant, who had, also, three previous
convictions one for obtaining credit by false pretences and two
for obtaining money by false pretences.

Upon appeal against sentence:

20 *Held*, that having given its consideration to the facts and
circumstances of the case and to the personal circumstances of
the appellant this Court has come to the conclusion that there
is no merit whatsoever in this appeal; that the appellant has
felt no restraint during his stay in Cyprus and has gone on a
criminal spree showing his lack of respect for the property of
others; that he abused the hospitality and kindness extended
25 to him by the complainant and he should be thankful for the

extreme leniency shown to him by the Court which this Court seriously wonders if he really deserved it; accordingly the appeal must be dismissed.

Appeal dismissed.

Appeal against sentence.

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Appeal against sentence by Nicolas Petrou HadjiMitsis who was convicted on the 10th May, 1982 at the District Court of Limassol (Criminal Case No. 7845/82) on one count of the offence of burglary and theft, contrary to section 292(a) of the Criminal Code, Cap. 154 and was sentenced by Korfiotis, D.J. to nine months' imprisonment.

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Appellant appeared in person.

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

A. LOIZOU J. gave the following judgment of the Court. The appellant pleaded guilty to a charge of burglary and theft contrary to section 292(a) of the Criminal Code, Cap. 154, and was liable to imprisonment for ten years.

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The particulars of the offence were that between the 10th day of December, 1981 and the 17th day of January, 1982, at Limassol, at night time, he did break and enter a building used as a human dwelling by one Neil Brindley of Limassol with intent to commit a felony therein, and he stole therefrom the articles shown on the appendix to the charge, to the total value of £420.-, the property of the said Neil Brindley.

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The case was remitted by the Attorney-General under section 155(b) of the Criminal Procedure Law, Cap. 155, to be dealt with summarily and the appellant asked that eight other outstanding similar offences, which he admitted to have committed and for which proceedings were pending to be and were so taken into consideration with the consent of the prosecutor. The sentence imposed on him was one of nine months' imprisonment.

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The relevant facts were briefly as follows: The appellant was born in England from Cypriot parents and came to Cyprus as a visitor on the 22nd August 1981. He is 21 years old and single. The complainant a member of the British forces re-

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sided at Panayiotis Shckeris Street, No. 8 at Limassol. He knew the appellant and a lady friend of his and extended to him and his girlfriend, known by the name of Sharon Barnes, hospitality at his house for a few days. On the 10th December, 1981
5 the complainant and his wife left for England having duly locked and secured their home. On their return to Cyprus, on the 17th January 1982 they discovered that same had been broken into and the items referred to in the charge were stolen. Entrance
10 into the house was gained by breaking the glasspane of the kitchen door and unlocking it with the key that was on the inside part of it. After the items were stolen the culprit left from the main entrance taking with him its key.

This case was detected as one of the prosecution witnesses reported to the Police that during the absence of the complainant he had seen the appellant in that house and when asked
15 about his presence there he said that he had been given the keys by its occupants. When this was found to be untrue the appellant was arrested and a search of his house was carried out. The appellant had also three previous convictions committed
20 between the 30th October, 1981 and 18th February, 1982. The first was for obtaining credit by false pretences for which he was bound over in the sum of £100.- to come up for judgment. The second, for obtaining money by false pretences, he was sentenced to £50.- fine and ordered to pay £28.250 mils as
25 compensation and £14.- costs, and the third again for obtaining money by false pretences was taken into consideration in passing sentence on the previous offence and he was also ordered to pay £60.- as compensation.

This appeal is against the sentence imposed on him on the
30 ground that same is manifestly excessive and the notice thereof was filed by him whilst at the Central Prisons Nicosia.

In arguing his case before us the appellant merely asked for a reduction of his sentence so that he would return home the soonest possible.

35 Having given our consideration to the facts and circumstances of the case and to the personal circumstances of the appellant we have come to the conclusion that there is no merit whatsoever in this appeal. The appellant has felt no restraint during

his stay in Cyprus and has gone on a criminal spree showing his lack of respect for the property of others. He abused the hospitality and kindness extended to him by the complainant and he should be thankful for the extreme leniency shown to him by the Court which we seriously wonder if he really deserved it. In the result the appeal is dismissed.

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Appeal dismissed.