

1983 February 9

[TRIANTAFYLIDIS, P., DEMETRIADES, SAVVIDES, JJ.]

THE ATTORNEY-GENERAL OF THE REPUBLIC,

Appellant.

v.

ANDREAS ELIA VASSILIOU,

Respondent.

(Criminal Appeal No. 4371).

5 *Road Traffic—Sentence—Driving a motor vehicle whilst being disqualified and using such vehicle without a policy in respect of third party risks—Total fine of C£30 and disqualification for 45 days—Insufficient in view of the gravity of the offences and the previous convictions of the respondent—Disqualification increased to 12 months.*

10 The respondent pleaded guilty to the offence of driving a motor cycle while being disqualified for a period of two months from holding a driving licence and to the offence of using such motor cycle without a policy in respect of third party risks; and was sentenced to pay a fine of C£20 in respect of the first offence, a fine of C£10 in respect of the second offence and was, also, disqualified from holding a driving licence for a period of forty-five days. He had a previous conviction in respect of the first offence and two previous convictions in respect of the second.

15 *Upon appeal by the Attorney-General of the Republic against the insufficiency of the aforesaid sentences in view of the gravity of the offences concerned and the previous convictions of the respondent:*

20 *Held, that the appeal is fully justified; and that the respondent should be disqualified from holding or obtaining a driving licence for a period of twelve months on each count.*

Appeal allowed.

25 *Observations:* It should be stressed that it is with great reluctance that this Court has refrained from imposing on the

respondent a sentence of imprisonment under section 20 of Law 86/72.

Appeal against sentence.

Appeal by the Attorney-General of the Republic against the inadequacy of the sentence imposed on the respondent who was convicted on the 1st November, 1982 at the District Court of Limassol (Criminal Case No. 16652/82) on one count of the offence of driving a motor cycle while being disqualified contrary to section 20 of the Motor Vehicles and Road Traffic Law, 1972 (Law No. 86/72) and on one count of the offence of using a motor cycle without a policy in respect of third party risks contrary to section 3 of the Motor Vehicles (Third Party Insurance) Law, Cap. 333 (as amended by Law 7/60) and was sentenced by Hadjihambis, D.J. to pay £20.- fine on the first count, £10.- fine on the second count and was further disqualified from holding or obtaining a driving licence for a period of forty-five days. 5 10 15

A. Frangos, Senior Counsel of the Republic, for the appellant.

Respondent appeared in person. 20

TRIANAFYLLIDES P. gave the following judgment of the Court. The respondent has pleaded guilty, on the 1st November 1982, before the District Court of Limassol, to, inter alia, charges of driving on the 31st October 1982 a motor cycle while being disqualified for a period of two months—as from the 6th October 1982—from holding a driving licence, and of using such motor cycle without a policy in respect of third party risks. 25

He was sentenced to pay, in respect of the first offence, a fine of C£20 and in respect of the second offence a fine of C£10 and was, also, disqualified from holding a driving licence for a period of forty-five days. 30

The Attorney-General has appealed on the ground that the aforesaid sentences are insufficient in view of the gravity of the offences concerned and the previous convictions of the respondent. 35

We find the appeal of the Attorney-General fully justified, especially as on the 4th May 1982 the respondent was convicted

of the offence of driving without third party insurance and he was sentenced to pay a fine of C£15 and was disqualified from holding a driving licence for a period of six months, and yet, before the expiration of the said period, on the 6th October 5 1982, he was convicted of driving while being disqualified and of driving without third party insurance and was sentenced to pay a fine of C£20 and was disqualified from holding a driving licence for a period of two months; and he committed again the same offences on the 31st October 1982.

10 We have reached the conclusion, in the circumstances of this case, that the proper course is to increase the sentence that was passed upon the respondent for the offence of driving while being disqualified by making, in addition to the fine of C£20, an order 15 disqualifying the respondent from holding or obtaining a driving licence for a period of twelve months, in accordance with the relevant provisions in section 19 of the Motor Vehicles and Road Traffic Law, 1972 (Law 86/72); and, as regards the sentence that was passed upon the respondent for driving without third party 20 insurance, to increase the period of disqualification from holding or obtaining a driving licence to twelve months, under section 3(3) of the Motor Vehicles (Third Party Insurance) Law, Cap. 333, as amended by the Motor Vehicles (Third Party Insurance) (Amendment) Law, 1960 (Law 7/60).

25 We should stress that it is with great reluctance that we have refrained from imposing on the respondent a sentence of imprisonment under section 20 of Law 86/72.

In the result this appeal is allowed accordingly.

Appeal allowed.