

1982 December 13

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

THE ATTORNEY-GENERAL OF THE REPUBLIC,

Appellant,

v.

PANAYIOTIS CHRISTOFI PANAYIOTOU,

Respondent.

(Criminal Appeal No. 4373).

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Third party insurance—Using a motor vehicle without a policy in respect of third party risks—Section 3 of the Motor Vehicles (Third Party Insurance) Law, Cap. 333—Prevalence of offence—Respondent not only refused permission by owner of vehicle to use it but also warned that he was not covered by the insurance policy—Sentence of two months' disqualification manifestly inadequate—Increased to six months. 5

This was an appeal by the Attorney-General of the Republic against the inadequacy of the sentence of two months' disqualification which was imposed on the respondent who pleaded guilty to 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. 10

The respondent was not the owner of the motor cycle in question; and he was not only refused permission by its owner to use it but he was expressly warned that the insurance in force for the vehicle did not cover user by others. 15

Held, that the sentence of two months disqualification imposed on the respondent is, in the circumstances, manifestly inadequate, as the offence committed by the respondent is a prevalent one and as he drove the motor-cycle well knowing that he was not covered by the insurance policy; that, therefore, the sentence of disqualification will be increased from two months to six months. 20

Appeal allowed. 25

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 5th November, 1982 by the District
 5 Court of Limassol (Case No. 16736/82) on one count of the offence of using a motor vehicle 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 HadjiChambis Ag. D.J. to pay
 10 £10.- fine and was further disqualified from holding or obtaining a driving licence for a period of two months.

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

Respondent appeared in person.

15 TRIANTAFYLIDES P.: The judgment will be delivered by Mr. Justice Demetriades.

DEMETRIADES, J.: This is an appeal by the Attorney-General of the Republic against the sentences imposed on the respondent by the District Court of Limassol.

20 The respondent in this appeal is a young man 20 years old and was found guilty on his own plea on four counts:-

(1) Using a motor vehicle without a policy in respect of the third party risks, contrary to section 3 of the Motor Vehicles (Third Party Insurance) Law, Cap. 333, as
 25 amended by the Motor Vehicles (Third Party Insurance) (Amendment) Law, 1960 (Law 7/60).

(2) Taking and driving away a motor vehicle without the consent of the owners, contrary to sections 11 and 19 of the Motor Vehicles and Road Traffic Law, 1972 (Law
 30 86/72).

(3) Driving a motor vehicle without reasonable consideration, contrary to sections 8 and 19 of the Motor Vehicles and Road Traffic Law, 1972 (Law 86/72).

(4) Criminal trespass, contrary to section 280 of the Criminal Code, Cap. 154.
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As a result he was sentenced to £10.- fine and a disquali-

fication from holding a driving licence for two months on count 1, £5.- fine on count 2 and £5.- fine on count 3. No sentence was imposed on him on count 4.

The Attorney-General of the Republic, in view of the gravity of the offences committed by the respondent, considered the sentences passed upon him insufficient and filed the present appeal. 5

The facts which led to the conviction and sentence of the respondent are briefly the following:

On the 4th November, 1982, at about 8.00 a.m., the respondent, who is an assistant builder, took his motor-cycle for repairs and then went to work, where he met a certain Nicos Antoniou who is the owner of another motor-cycle. The respondent asked Nicos Antoniou to lend him his motor-cycle in order to go and buy some spare parts for his own motor-cycle. Antoniou refused to give to the respondent the motor-cycle because, as he had explained to him, his insurance did not cover any other driver. When Antoniou went into a house where the respondent and Antoniou worked, the respondent took and drove away the motor-cycle. He went into the yard of the Lanition Gymnasium which, as we understand from the record of the proceedings, is frequented by motor-cyclists for racing. When the respondent entered the yard, he noticed that there were policemen there and in order to avoid being reported, he accelerated and in his endeavour to run away he lost control of the motor-cycle and fell on the road. He got up, rode again and drove away in a zigzag. 10
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The respondent did not deny that he took the motor-cycle despite the warning given to him by its owner that he was not covered by the insurance policy, nor did he deny that he was prohibited by the owner of the motor-cycle to use it. 30

Mr. Frangos, Senior Counsel of the Republic, who appeared on behalf of the Attorney-General, limited the appeal on the insufficiency of the sentence imposed on count 1 and, in particular, to the manifestly short period of disqualification imposed on the respondent. In support of his argument he submitted that the sentence of two months disqualification imposed on the respondent was too lenient, in that this particular type 35

of offence is a prevalent one amongst young people and in that the respondent was not only refused permission to use the motor-cycle, but he was expressly warned that the insurance in force for the motor-cycle did not cover user by others.

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The respondent did not put forward any ground as to why the sentence on count 1 should not be increased.

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We have carefully considered the arguments advanced by counsel for the Republic and we have come to the conclusion that the sentence of two months disqualification imposed on the respondent is, in the circumstances, manifestly inadequate, as the offence committed by the respondent is a prevalent one and as he drove the motor-cycle well knowing that he was not covered by the insurance policy.

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In the result, we have decided to increase the sentence of disqualification from two months to six months and the present appeal is allowed accordingly.

Appeal allowed.