

1979 January 8

[HADJIANASTASSIOU, DEMETRIADES, SAVVIDES, JJ.]

ANDREAS GAVRIEL,

*Appellant.*

THE POLICE,

*Respondents.*

(*Criminal Appeal No. 3978*).

*Road traffic—Sentence—Failing to stop at traffic lights—£20 fine and six months' disqualification—Disqualification reduced to three months—Fine increased to £50.*

Whilst the appellant was driving his car along Ay. Procopios Str. and when at its junction with Grivas Dhigenis Avenue, which is controlled by traffic lights, he entered the junction with red lights and collided violently with a car driven along the avenue. He pleaded guilty to the offence of failing to stop at the traffic lights and was sentenced to a fine of £20 and was further disqualified from holding or obtaining a driving licence for a period of six months. Though there was no allegation at the Court below that the appellant needed a car for the purposes of his work upon appeal against sentence it was contended on his behalf that he was a building contractor and he had absolute need of his car for carrying out his work in order to take labourers and materials from one place to another.

*Held*, that the appeal should be allowed by reducing the disqualification from six months to three months; that, further, the fine should be increased from £30 to £50.

*Appeal partly allowed.*

Cases referred to:

*Economides v. Police* (1970) 2 C.L.R. 138;

*Hadjipandela v. Police* (1966) 2 C.L.R. 74.

**Appeal against sentence.**

Appeal against sentence by Andreas Gavriel who was convicted on the 1st December, 1978 at the District Court of Nicosia

(Criminal Case No. 21863/78) on one count of the offence of failing to stop at traffic lights contrary to regulations 57(1)(k) and 71 of the Motor Vehicles Regulations, 1973 and section 5 of the Motor Vehicles and Road Traffic Law, 1972 (Law No. 86/72) and was sentenced by G. Nicolaou, Ag. D.J. to pay £20.- fine and was further disqualified from holding or obtaining a driving licence for a period of six months.

*E. Emilianides*, for the appellant.

*R. Gavrielides*, Senior Counsel of the Republic, for the respondents.

HADJIANASTASSIOU J. gave the following judgment of the Court. On 12th July, 1978, at 2.35 p.m. the appellant was driving the motor car GL 690 along Ay. Procopiou Street, in Engomi, from Engomi to Parisinos area. When at the junction of the said road with Griva Dhigeni Avenue, which is controlled by traffic lights, he entered the junction with red lights and collided violently with motor car GU 390 driven by Nicos Hartziotis, of Acropolis, along G. Dhigeni from left to right of the appellant. As a result of the collision both vehicles sustained extensive damage. The appellant and the other driver were slightly injured. In spite of the fact that the appellant was aware of the existence of the traffic lights he did not stop or reduce speed on approaching the lights. The appellant is a mason and a batchelor and he assists financially his mother and his brother.

The trial Court had this to say at p. 4 of the record:

"I regard the offence in count 1 as serious; what is of importance in this respect is the protection of the public from behaviour such as that exhibited by the accused; he showed complete and selfish disregard for the safety of other innocent users of the road travelling unsuspectingly with green lights. In passing sentence I have taken into consideration not only the nature of seriousness of the offence in count 1 in the context of its own particular circumstances but also the personal circumstances of the accused.

I sentence the accused on count 1 to £20.- fine and I disqualify him from holding or obtaining a driving licence in respect of a motor vehicle for a period of six months; I further order that his licence be endorsed.

I further order accused to pay £2,500 mils prosecution costs.

On count 2 in the circumstances I pass no sentence."

On appeal counsel for the appellant in a strong argument argued that the appellant is a building contractor and a displaced person from Sysklipos village. He also stated that the appellant has absolute need of his car for carrying out his work in order to take labourers and materials from one place to another. The appellant in the Court below appeared without having any lawyer and at that time he did not stress the need of his driving licence. In support of his argument counsel relied on *Economides v. The Police* (1970) 2 C.L.R. 138 and on *Hadjipandela v. The Police* (1966) 2 C.L.R. 74.

On the contrary counsel for the Republic stated that the appellant crossed one of the busiest roads during the red light. Furthermore, counsel argued that there was no allegation before the trial Court that the appellant needed his car.

We have considered very carefully the arguments of both counsel and we reached the conclusion, having regard to what has been said earlier, that the appeal should be allowed but the sentence of fine of the Court below to be increased from £20.- to £50.-. Furthermore, the sentence of disqualification of the Court below to be reduced from six months to three months.

*Appeal allowed.*