

1977 May 11

[HADJIANASTASSIOU, A. LOIZOU AND MALACHTOS, JJ.]

ATHOS POLYDOROU,

*Appellant.*

v.

THE POLICE.

*Respondents.*

*(Criminal Appeal No. 3788).*

*Criminal Law—Sentence—Stealing by a person in the public service—Sections 255, 267 and 270 of the Criminal Code, Cap. 154—Appellant a first offender and refunded the stolen money—Sentence of 12 months’ imprisonment upheld.*

The appellant, who was employed by the Ministry of Education as a treasurer of Phaneromeni Gymnasium in Nicosia pleaded guilty to the offence of stealing money whilst in the Public Service and was sentenced to 12 months’ imprisonment. The stolen money came into his possession by virtue of his employment and it included sums paid over by students as school fees and sums to which refugee students were entitled to for their transport expenses to their school. 5  
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Upon appeal against sentence it was contended on his behalf that it was excessive because the appellant was a first offender and had paid all the money he stole. 15

*Held*, that in the particular circumstances of this case this Court is not prepared to interfere with the sentence imposed upon the appellant; accordingly the appeal must fail.

*Appeal dismissed.*

**Appeal against sentence.** 20

Appeal against sentence by Athos Polydorou who was convicted on the 8th February, 1977 at the District Court of Nicosia (Criminal Case No. 34230/76) on 47 counts of the offence of

stealing money whilst in the public service contrary to sections 255, 267 and 270 of the Criminal Code, Cap. 154 and was sentenced by Boyadjis, S.D.J. to twelve months' imprisonment on the first count with no sentence being passed on the remaining counts.

*G. Mitsides*, for the appellant.

*Gl. Michaelides*, for the respondents.

HADJIANASTASSIOU, J. gave the following judgment of the Court. The appellant, Athos Polydorou, pleaded guilty to 47 counts for stealing money whilst in the public service contrary to sections 255, 267 and 270 of the Criminal Code, CAP. 154 and was sentenced by the trial Court to 12 months' imprisonment as from the 8th February, 1977. He now appeals against sentence on the ground that it is manifestly excessive once he had paid all his debts.

#### *The Facts*

The accused was 29 years of age and has been a supervisor and treasurer of the Gymnasium of Phaneromeni of Nicosia. His duties included clerical work, the collection of school fees and the payment of transport expenses to the students who were refugees. On 2nd April, 1976, at 10 a.m. a government auditor visited the Gymnasium in order to audit the accounts and check the cash of the accused. When he arrived the accused was absent and after a search he was found having his meal in the school canteen. The accused was informed of the arrival of the said officer and he promised to meet him in his office within two minutes. However, he had left the school premises because he had suspected and/or feared that he might have been arrested. The said officer after waiting in vain for a period of 45 minutes he informed the Accountant-General and the Senior Inspector of the Accounts of the Ministry of Education who arrived at the school together with another employee. The accused in the meantime had returned and he was asked to open the safe for checking its contents, and when he did so unfortunately it was found empty. In the meanwhile he had alleged that he kept the money in his house and he went to fetch it. On his return he handed over to another government auditor a banker's cheque for the sum of £210.- dated 9th February, 1976, which was issued by the Co-operative Savings Bank for Municipal

Employees in the name of accused's sister who is a municipal employee. When a further checking was carried out it was revealed that from 1st December, 1975 until 2nd April, 1976, there was a deficit for the sum of £424,600 mils. This amount appears in count 1 and also in counts 2-47 inclusive. The accused was keeping also amounts given to him by the government in order to pay them over to the refugees students for their transport expenses. In addition, he also stole school fees collected by him from students or school fees which were refunded by the school to students.

The trial Court in dealing with the case of the accused had this to say at p. 18:

"The offence of stealing by person who is in the public service referred to in count 1 is a serious offence punishable with imprisonment for up to 7 years.

The accused is employed by the Ministry of Education as a treasurer of Phaneromeni Gymnasium in Nicosia and the total sum stolen amounting to £424,600 mils came into his possession by virtue of his aforesaid employment. It included sums paid over to students as school fees and sums to which refugee students were entitled for their transport expenses to their school from the places where they settled after the invasion.

Persons in the public service should always, but especially during the present difficult times exhibit the fidelity and honesty which underlies such employment. Persons who prove themselves unworthy of the trust placed in them by their country should be punished in a way which will deter others to follow their example.

In passing sentence in the present case I have taken into consideration all the circumstances surrounding it as related to me by the prosecution and the learned counsel for the accused. I have also taken into account the personal circumstances of the accused, his clean record and the fact that he has refunded the amount stolen.

I have reached the conclusion that only a sentence of imprisonment is the appropriate one. I sentence the accused to imprisonment for 12 months as from to-day on count 1. No sentence on all other counts".

*Appeal*

On appeal Mr. Mitsides argued that in the particular circumstances of the situation of the appellant the learned trial Judge ought to have imposed a much lower sentence because (a) he  
5 was a first offender, and (b) he had already paid all the money he stole.

We have considered very carefully the argument of counsel and particularly the fact that the appellant had returned all the money but in the particular circumstances and the way the  
10 appellant had acted, we are not prepared to interfere with the sentence imposed upon the accused. For these reasons we would dismiss the appeal

*Appeal dismissed*