

1985 May 18

[DEMETRIADES, J.]

IN THE MATTER OF ARTICLE 146
OF THE CONSTITUTION

PAUL DARMANIN,

Applicant.

v.

THE REPUBLIC OF CYPRUS, THROUGH
1. THE MINISTRY OF INTERIOR,
2. THE IMMIGRATION OFFICER.

Respondents.

(Case No. 108/84).

Alien—Placing on stop-list—Information from a reliable source, the Canadian Police, that he had absconded from Canada whilst a case for possession of drugs was pending against him—Respondents rightly refused his entry into Cyprus

5 *Judicial notice—Trafficking of narcotic drugs in Cyprus nowadays—Judicially noticed.*

10 *Time within which to file a recourse—Article 146.3 of the Constitution—Running of time—Once applicant came to know of the sub judice decision, subsequent letter of the respondents confirming their position does not make running of time from the date of the letter.*

15 The applicant in this recourse, a foreign national and holder of an English passport, challenged the validity of the decision of the respondents to place his name on the stop-list. The reason for which his name was placed on the stop-list was that the respondents had information from the Canadian authorities that the applicant, though facing a charge of possessing narcotic substances, had absconded from Canada and that a warrant for his arrest was in force. Although the Canadian Police informed the
20 Cyprus Police that they did not intend to ask for the extradition of the applicant, they requested that in case

the Cyprus Police had information that the applicant intended to return to Canada to let them know; and in view of this information the authorities of the Republic placed the applicant on the stop-list.

Held, that it is judicially noticed that there is nowadays trafficking of drugs in Cyprus; that considering this and, also, that the Police and the respondents had information from a reliable source, namely the Canadian Police, that the applicant had absconded from Canada whilst a case for possession of drugs was pending against him, the respondents had rightly refused the entry of the applicant into Cyprus; and that, accordingly, the application should be dismissed. 5
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Held, further, that since it is an undisputed fact that applicant came to know of the sub judice decision between the 12th and 15th October, 1983, the mere fact that a letter was sent to the authorities by his counsel on the 10th November, 1983, and that a reply to this letter was sent to him on the 9th December, 1983, which confirmed the position of the respondents, does not make the period provided by the Constitution to run from that day; and that, therefore, the recourse must be dismissed for this reason too. 15
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Application dismissed.

Recourse. 25

Recourse against the refusal of the respondents to remove applicant's name from the stop-list.

Ph. Valiantis, for the applicant.

M. Florentzos, Senior Counsel of the Republic, for the respondent. 30

Cur. adv. vult.

DEMETRIADES J. read the following judgment. The applicant, a foreign national and holder of an English passport who now lives permanently in Paris, is married to a Cypriot woman but they no longer live together. Of the marriage there is a daughter who lives with her mother in Cyprus. 35

The applicant entered, for the first time, Cyprus in September 1956, and between that period and the end of 1972, he came to and left Cyprus about five times.

5 The applicant entered Cyprus, for the last time, on the 12th October, 1983. Prior to this, the name of the applicant, for reasons to which I will refer later, was placed on the stop-list. On that day the applicant using a passport the number of which did not correspond with the one appearing at his passport on the stop-list, entered Cyprus un-
10 noticed but when it was found that he was here, he was forced to leave Cyprus on the 15th October, 1983, after he was informed about the reasons for which his name was placed on the stop-list.

15 On the 10th November, 1983, the applicant, through his counsel, sought to be informed whether his name was removed from the stop-list and whether there was any problem to this effect. By their letter dated 9th December, 1983, the respondents informed counsel that his application was carefully examined but that it was not made possible to remove the name of the applicant from the stop-list.
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As it appears from the relevant file of the administrative authorities, which is *exhibit 1* before me, the reason for which the name of the applicant was placed on the stop-list was that the respondents had information from the Canadian authorities that the applicant, though facing a charge
25 of possessing narcotic substances, had absconded from Canada and that a warrant for his arrest was in force. Although the Canadian Police informed the Cyprus Police that they did not intend to ask for the extradition of the applicant, requested that in case the Cyprus Police had
30 information that the applicant intended to return to Canada to let them know. In view of this information the authorities of the Republic placed the applicant on the stop-list.

35 Counsel for the applicant submitted that the mere fact that the Cyprus Police had this information from the Canadian authorities was not a sufficient reason for placing the applicant on the stop-list and that before doing so they were obliged to make inquiries in order to find out whether the information given to them was correct. He further argued
40 that as the applicant was not called to give an expla-

nation, it must be taken that the respondents, in fact, did not exercise properly their discretionary power.

I see no merit in these submissions. It is judicially noticed that there is nowadays trafficking of drugs in Cyprus. Considering this and, also, that the Police and the respondents had information from a reliable source, namely the Canadian Police, that the applicant had absconded from Canada whilst a case for possession of drugs was pending against him, the respondents had rightly refused the entry of the applicant into Cyprus.

In the light of the above, I find that this application should be dismissed.

Before dismissing the recourse, I would like to deal with the submission of counsel for the respondents that the recourse was filed out of time. It is an undisputed fact that the applicant came to know that his name was on the stop-list, for the reasons explained hereinabove, between the 12th and the 15th October, 1983. The recourse was filed on the 24th February, 1984, that is more than seventy-five days after this fact came to his knowledge. The mere fact that a letter was sent to the authorities by his counsel on the 10th November, 1983, and that a reply to this letter was sent to him on the 9th December, 1983, which confirmed the position of the respondents, does not, in my view, make the period provided by the Constitution to run from that day. For this reason, also, the recourse must be dismissed.

As regards now the costs of this application, I feel that since the applicant is not in Cyprus, it will serve no purpose to order him to pay the costs.

In the result the recourse is dismissed with no order as to its costs.

*Recourse dismissed with
no order as to costs.*