

1988 December 1

(STYLIANIDES, KOURRIS, BOYADJIS, JJ.)

1. MARINOS CHRISTAKI EFTHYMIU,
2. LOIZOS AVGOUSTI SPYROU,

Appellants,

v.

THE REPUBLIC

Respondent.

(Criminal Appeals Nos. 5015, 5016).

5 *Sentence — Shopbreaking and stealing from a shop and causing malicious damage to property, a Land-Rover — Numerous similar outstanding offences taken into consideration — Previous conviction for similar offences — Appellants twenty years old, one of them in need of psychiatric care — Three years' imprisonment — Not manifestly excessive.*

Sentence — Interference with, on appeal — Principles applicable.

10 Each of the appellants was sentenced to three years' imprisonment for the aforesaid offences. In passing sentence the trial Court took into consideration thirty-three similar offences committed by the one appellant and twenty-one similar offences committed by the other appellant.

15 Each appellant had a previous conviction for eight similar offences, in respect of which he had been sentenced to 18 months' imprisonment.

The appellants are twenty years old. The one of them is in need of psychiatric treatment.

20 Held, *dismissing the appeals*: (1) This Court will interfere with a sentence if the trial Court misdirected itself either on the facts or the law, or allowed itself to be influenced by a matter which should not affect the sentence or if the sentence is manifestly excessive.

(2) The sentences imposed upon the appellants are not manifestly excessive.

Appeals dismissed.

Appeals against sentence.

Appeals against sentence by Marinos Christaki Efthymiou and Another who were convicted on the 5th July, 1988 at the Assize Court of Limassol (Criminal Case No. 14492/88) on one count of the offence of shop-breaking and stealing contrary to sections 294(a), 255 and 20 of the Criminal Code, Cap. 154 and was sentenced by Chrysostomis, P.D.C., Anastassiou, S.D.J. and N. Nicolaou, D.J. to three years' imprisonment each. 5

G. Papantoniou, for the appellant.

S. Matsas, for the respondent.

STYLIANIDES J.: The judgment of the Court will be delivered by Mr. Justice Kourris. 10

KOURRIS J.: Both appeals, which were heard together, were against the sentences of imprisonment imposed by the Assize Court of Limassol on each of the appellants.

'Appellant in Appeal No. 5015 was sentenced to three years' imprisonment for breaking and entering into shops at Troodos and Platres and stealing therefrom and also for causing malicious damage to a land-rover at Platres. For the purpose of this appeal this appellant will be referred to as appellant 1. Appellant in 'Appeal No. 5016 was also sentenced to three years' imprisonment for committing the same offences as appellant 1. For the purposes of this appeal this appellant will be referred to as appellant 2. 15 20

The Court of Appeal will only interfere with a sentence so imposed if it is made to appear from the record that the trial Court misdirected itself either on the facts or the law, or that the Court in considering the sentence allowed itself to be influenced by a matter which should not affect the sentence or if it is made to appear that the sentence of the Court is manifestly excessive in the circumstances of the particular case. 25

The submission of learned counsel for the appellants that the sentences imposed on the appellant are manifestly excessive is that the Courts in similar cases imposed lesser sentences of imprisonment and he referred to us two cases where the accused were sentenced to six months and one year imprisonment respectively. 30 35

The Assize Court in passing sentence upon the appellants has

taken into consideration another eleven offences of breaking and entering with stealing, four offences of breaking and entering with intent to commit an offence, and three attempts of breaking and entering and one offence of malicious damage to property in
5 respect of appellant 1. With regard to appellant 2 the Assize Court has taken into consideration another ten offences of breaking and entering with stealing, four offences of breaking and entering with
intent to commit an offence and three offences of attempt to break and enter and one offence of malicious damage to property.

10 It should be noted that among the offences of breaking and entering are included three branches of banks. The sum stolen amounts to £1,040.12c and the malicious damage amounts to £19.-. A substantial part has been recovered but a cash-machine amounting to £800.- was destroyed. The sum stolen with regard to
15 the cases taken into consideration amounts to £5,074.90c and the amount of £4,229.35c has been recovered.

It is true that both appellants upon their arrest confessed to the police and co-operated with the detection of the crimes.

20 Counsel for the appellants argued that both appellants are of young age, both 20 years old, and that the first appellant is in need of psychiatric treatment.

We have considered the submissions made on behalf of the appellants and we find that the appeal has no merit at all inasmuch as both appellants on 21.6.1986 were sentenced to eighteen
25 months' imprisonment in respect of eight offences of breaking and entering and that the Court in imposing sentence took into consideration another thirty-three similar offences with regard to appellant 1 and another twenty-one similar offences with regard to appellant 2.

30 There is no doubt that the Assize Court had in mind the young age of the appellants and took also into consideration the report made by the Welfare Office and everything that has been said on behalf of the appellants.

35 The Assize Court in imposing sentence was very careful and has taken into consideration all relevant matters and we are of the view that we cannot disturb the sentences imposed by the Assize Court. We are satisfied that the sentences imposed upon the appellants are not manifestly excessive because we feel that we must give due regard to the protection which the general public are entitled to

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under the law against the dangers coming from persons who do not respect their properties.

For all the above reasons the appeals are dismissed.

Appeals dismissed