

[GRIMSHAW, ACTING C.J. AND DICKINSON, ACTING P.J.]

GRIM-  
SHAW,  
ACTING C.J.  
&  
DICKIN-  
SON,  
ACTING P.J.  
1924

YEORGHIOS ANASTASSI

v.

SULEYMAN HUSSEIN.

December 3

MINORITY—EFFECT OF ILAM OF SHERI COURT—NO PUBLICATION—DESTOUR  
VOL. I. P. 208—MEJELLE ART. 981.

*The facts in this case are as follows :—*

*Defendant was born in 1901, shortly after his father died and his mother was appointed his guardian. In 1912 she died and defendant's uncle was appointed his guardian by an Ilam of the Sheri Court, the disability of the defendant being his infancy.*

*In 1919 and 1920 defendant borrowed money from plaintiff and several items were added together and amounted to a sum of £58 10s. for which a bond was given. By that time defendant was a married man and the evidence goes to show that part of the money borrowed was to meet the expenses of defendant's marriage. Plaintiff states that defendant managed his own affairs, at any rate as far as the general public were aware and that he dealt with him as an adult person. He states that the defendant undertook to give him (plaintiff) a mortgage on his property before the bond fell due and it was because defendant failed to do this that he brought the action. At the settlement of issues a defence was raised that the bond was obtained fraudulently and further that as the defendant was under disability the bond was valueless. Issues were framed as follows :—*

1. *Plaintiff to prove the bond.*
2. *Defendant to prove his disability (minority) and fraud.*

At the trial the plaintiff established each one of the items that went to make the bond total in a very clear and concise way, and the defendant failed to prove that there was fraud, and the only evidence of disability was the 1912 Ilam given when defendant was eleven years old. The District Court gave judgment for plaintiff as claimed.

From this judgment Defendant appeals.

For Appellant (defendant) *Jemal*.

For Respondent (plaintiff) *Emfedjis*.

**JEMAL:** The Ilam of 1912 still stands until it is set aside by a further Ilam. The Qadi may keep the affairs of a minor in his hands until the minor reaches the age of twenty-five.

**Judgment :** According to the Mejellé and other authorities a person can be given his property after attaining the age of puberty, which, for a Moslem person, cannot be later than fifteen years. The Infant's Estates Law which regulates the dealings with the estates of infant

Christians was originally twenty-one years but this was reduced to eighteen years, being the approximate corresponding age to the Moslem twenty years. The reference in the *Destour* Vol. I., p. 276 is really only a departmental instruction and refers to money in the hands of the Treasury and is not actual law. To hold that a man of eighteen may be disallowed from making valid contracts binding on his property by a continuance of the original infant's guardianship *Ilam* would be a great hardship on the public, as such an order is not made public, whereas an order interdicting a person of full age has to be made public. We consider that when an infant becomes eighteen years old the Sheri Court should make enquiries, and if it considers that an infant for whom a guardianship order has been made should be further kept under guardianship after that age the Court should then issue an interdictory order to that effect and have it published in the same manner.

*We therefore dismiss the appeal.*

GRIM-  
SHAW,  
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YEOURGHIOS  
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[NETTLETON, C.J. AND GRIMSHAW, P.J.]

POLICE

v.

RASHIT MEHMED.

ESTREATMENT OF BAIL BOND—C.C.J.O., 1882, CLAUSE 116.

Appeal by surety, from the order of a Magisterial Court, ordering that a bond for £30 given by appellant, the surety, on behalf of the accused (who has failed to answer to his bail), be estreated and the £30 recovered against the surety.

For Appellant (surety) *Behaeddin*.

For Crown the *Assistant King's Advocate*.

*Judgment*: This Court has no jurisdiction to interfere with the discretion, exercised judicially by a Magistrate in the matter of a bail bond.

*Appeal dismissed.*

NETTLE-  
TON,  
C.J.  
&  
GRIM-  
SHAW,  
P.J.  
1924

December 24