

CASES

DECIDED BY

THE SUPREME COURT OF CYPRUS

IN ITS ORIGINAL JURISDICTION AND ON APPEAL
FROM THE ASSIZE COURTS, DISTRICT COURTS
AND TURKISH FAMILY COURTS.

[VASSILIADES, P. D. C.]
(March 15, 1955)

PANAYIOTIS GEORGHIOU, of Kornos, *Appellant*.

v.

THE REGISTRAR OF MOTOR VEHICLES, Nicosia,
Respondent.

(*District Court of Larnaca—Appeal No. 7/55*)

Road Traffic—One-eyed driver—Driving licence cancelled by Registrar of Motor Cars—Motor Vehicles Regulations, 1951 to 1954, Regulation 40.

The Appellant, who was 30 years old, had lost the vision of his right eye at the age of 12. None of his other faculties was affected, and the vision of his left eye was normal.

In September, 1952, after passing a driving test, the Appellant obtained his first driving licence, authorizing him to drive a motor lorry only. Twelve months later viz., on the 17th September, 1953, he obtained a licence to drive all classes of motor cars, including omnibuses. On the 17th September, 1954, the Appellant's licence was renewed by the Registrar of Motor Cars, but on the 29th November, 1954, the Registrar cancelled his licence for all classes of vehicles except motor lorries, under the provisions of Regulation 40 of the Motor Vehicles Regulations, 1951 to 1954, on the ground that the Appellant was one-eyed.

Upon appeal to the President of the District Court of Larnaca,

Held: That the mere fact that a person was one-eyed could not, of itself, constitute a good ground for cancelling his driving licence.

Lefkos Clerides for the appellant.

Sgt-Major Casparis for the respondent.

The facts sufficiently appeared in the judgment of the District Court which was delivered by:

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VASSILIADES, P. D. C.: This is an appeal against the decision of the Registrar of Motor Cars to cancel the driving licence of the appellant for certain classes of motor vehicles. The appeal is made under Regulation 40 of the Motor Vehicles (Amendment) Regulations, 1954, which, as far as material to this case, reads:

“40—(1) The Registrar may in his discretion—

- (a) by order under his hand cancel or suspend any driving licence;
- (b) refuse to renew any driving licence if the holder thereof shall be convicted of any offence against the law or these Regulations or if the Registrar is satisfied that such licence was obtained by any false representations or that the continuance or renewal of any such licence would constitute a danger to public safety;

Provided that the Registrar shall inform in writing the holder of any such licence of the substance of what is alleged against him and shall consider any explanations or representations made by him in connection with such proposed cancellation within seven days thereafter.

(2)

- (3) Any person aggrieved by an order or decision of the Registrar under paragraph (1) of this Regulation may, within 14 days of the notification to him of such order or decision, appeal to the President of the district where he resides whose decision thereon shall be final.”

The appellant is the owner-driver of a motor-lorry which he uses mainly for the transport of labourers from his village, Kornos, to Nicosia and back, a distance of about 18 miles each way. The lorry is also used for the transport of loads. Appellant, who is now 30 years of age, lost the vision of his right eye at the age of 12 in consequence of a short illness which he described as meningitis. None of his other faculties was affected and the vision of his other eye is apparently, and according to the evidence before me, perfectly normal. For the last 18 years of his life, appellant exercised his faculty of vision through that one eye and has become so used to this condition that, unless he is reminded of the fact, he does not feel, he said, the absence of vision in the other eye. I have no reason to disbelieve that statement. Appellant's general physical condition appears to be quite good.

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While still very young, the appellant had to work in order to help his widowed mother to support the family with her earnings as farm or road labourer. Before he was 18, appellant got married and he is now the supporter of a wife and their five young children. Finding that his earnings as a labourer were not sufficient for the support of the family, appellant and his wife mortgaged their small house and raised money with which appellant bought a second-hand lorry in 1950 which he used for the transport of labourers from his village to Nicosia and back. As he had no driving licence, appellant engaged a driver, but managed personally his business and went regularly with the driver on all trips. He gradually learned how to drive the lorry and in September, 1952, after passing the Regulation tests, appellant obtained his first driving licence for the driving of a motor-lorry only. With that licence he drove his lorry on all trips on which he carried loads, but still had to use the services of a duly licenced driver for the trips on which the lorry was used, as a passenger bus. This went on for a year, until the 17th September, 1953, when appellant obtained a licence to drive most types of motor vehicles described in his licence as "m/cars of class A, B, C, D & E". This included his lorry when used as a bus; and as from that date appellant dispensed entirely with the services of another driver and drove his lorry on all trips.

A year later, on the 17th September, 1954, appellant renewed his licence and was again issued by the Registrar with a similar licence by virtue of which he continued his work until the end of November, 1954, when he was notified that the Registrar had decided to cancel his licence for all other types of vehicle except class "B" which meant that he could now only drive his lorry when used for the transport of loads. Appellant's licence was then endorsed accordingly on the 29th November, 1954.

Against this decision of the Registrar, appellant appealed to the Governor in Council under Regulation 40 as it then stood. Pending that appeal, the new Motor Vehicles and Road Traffic Law, 1954, came into force (15th December, 1954). Under the Motor Vehicles (Amendment) Regulations, 1954, made under sec. 3 of the new law and published on the 16th December, 1954, Regulation 40 was amended so that an appeal against a decision of the Registrar under that regulation is now entertained by the President of the District Court of the district where the appellant resides.

The main ground on which appellant's counsel argued this appeal is that nothing happened between the 17th September, 1954, when his client's licence was renewed, and the 29th November, 1954, when the Registrar's decision was endorsed on appellant's licence, to justify the decision of the Registrar, and, therefore, that decision

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should not be allowed to stand. The decision practically deprives the appellant from his means of livelihood, counsel submitted.

The Deputy Registrar of Motor Cars, who appeared for the respondent in these proceedings, stated that the reason why appellant's licence was limited to the driving of load lorries only, is that, in his opinion, one eye cannot take vision in the same way as two eyes. The range of vision of one eye is limited, he said, as a man like the appellant cannot see out of the "corner of his right eye." And he added that in his view the consequences of an accident with a bus involved are likely to be much more serious than where a load lorry is concerned. His decision was intended to protect the public.

It is clear to me that the decision was made in good faith and as a measure for the protection of persons on the road. And it is equally clear that the Registrar's reason for his decision is based on good arithmetic: "One eye cannot take vision in the same way as two eyes." But I am afraid there is nothing beyond this, to support the Registrar's decision. Arithmetic cannot always be a safe or true guide in dealing with nature. One strong hand of a healthy man is very often much better than two weak hands of the same man during an illness; and one good eye can be a safer and more true organ of vision than two weak or defective eyes. Although I do not have the expert evidence of an oculist before me, I can make use of the common knowledge that a person with two eyes closing one of them for a moment will feel that his range or powers of vision are not the same as when the two eyes were open. But a person losing one eye gradually becomes accustomed to the new conditions and his remaining eye gradually acquires additional strength so that in the course of time he can do with one eye almost all he could do with his two eyes. I believe the Registrar will agree that a careful driver with one good eye is a safer driver than a careless, or nervous, or excitable, or reckless driver with two eyes. The mere absence of one eye, unaccompanied by other reasons affecting the ability of a person to drive, cannot, in my opinion, constitute a good reason for depriving such person from a driving licence.

Regulation 27 provides that:

"Subject to the provisions of Regulations 42 and 44 (Temporary Driving Licences and International Driving Licences) a driving licence shall be issued by the Registrar to a person applying therefor as in form E of the first schedule hereto, who pass a driving test to the satisfaction of the Registrar. Provided that the Registrar may dispense with such driving test if otherwise satisfied of an applicant's proficiency."

The only limitation to the issue of a driving licence

to a person qualified by age to hold such a licence, is his driving proficiency and ability to drive. Under Regulation 40 as now amended, the Registrar may in his discretion refuse to renew a driving licence, if the holder shall be convicted of any offence against the law or the regulations, or if the Registrar is satisfied that the continuance or renewal of any such licence would constitute a danger to public safety; a danger because, in my view, the use of such a licence by the holder in the past has been shown to constitute a danger to public safety.

The appeal, therefore, succeeds and the endorsement on the appellant's licence made on the 29th November, 1954, should be removed.

In the circumstances of this case and particularly the reasons which led the respondent to his decision, there should, in my opinion, be no order for costs in these proceedings.

[ZEKIA, J. and ZANNETIDES, J.]
(Nov. 12, 1955)

MICHALAKIS SAVVA KARAOLIDES, *Appellant,*

v.

THE QUEEN, *Respondent.*

(*Criminal Appeal No. 2016*)

*Criminal Law—Evidence of motive on murder charge—
Wrongful admission of—No miscarriage of justice.*

P.C. Poullis of the Special Branch was shot dead while on duty in Ledra Street, Nicosia, on 20th August, 1955. One of the assailants mounted a bicycle but was intercepted; the cyclist made his escape but the bicycle was seized. It was found to belong to Karaolides who went into hiding for eight days but was arrested on 3rd September having descended from a motor-car to avoid a police road block. In his possession was found a piece of paper on which was written:

“I am sending you the bearer of this note and take good care of him. He is a good boy and a patriot to the point of sacrifice, you can trust him. Nobody should know his identity.” (The note is signed ‘Averoff’).

Karaolides was tried for the murder of Poullis and convicted.

The Assize Court accepted the evidence of two eye-witnesses for the prosecution who identified Karaolides as one of the assailants; it rejected the evidence of one prosecution eye-witness, the evidence of four defence eye-witnesses and the accused's own evidence and that of his witnesses to an *alibi*.

In order to show motive or to show that this crime was not committed without motive, the Assize Court admitted the following evidence: evidence that the

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