

1. ANASTASSIS
THEORI
PYRILLI
alias
SKAPOULLOS
2. XENIS
THEORI
PYRILLI
v.
THE POLICE

1. ANASTASSIS THEORI PYRILLI *alias* SKAPOULLOS,
2. XENIS THEORI PYRILLI,

Appellants,

v.

THE POLICE,

Respondents.

(*Criminal Appeals Nos. 2664 and
and 2665 (Consolidated).*)

Road Traffic—Third Party Insurance—Driving or permitting to drive a motor vehicle without being covered by a policy of insurance in respect of third party risks, contrary to section 3 (1) and (2) of the Motor Vehicles (Third Party Insurance) Law, Cap. 333.

Policy of Insurance—Construction of—An expired learner's licence meets the requirements of the Policy of Insurance whereby the appellants were covered against third party risks provided the driver "holds a licence to drive the motor vehicle or has held and is not disqualified for holding or obtaining such a licence. The term 'licence' means a licence or other permit required by the licensing or other laws or regulations".

On October 1963, appellant No. 1 was driving, with the permission of appellant No. 2, a motor cycle without a driving licence, contrary to regulations 27 (1) and 66 of the Motor Vehicles Regulations, 1959. In 1959 appellant No. 1 possessed a learner's driving licence to operate a motor cycle but this licence was not renewed so that at the time he was apprehended (*i.e.* on October 20, 1963) he was not in possession of any licence to drive a motor cycle. Appellant No. 2, the owner of the motor cycle in question, had at the material time (October 1963) a valid certificate of Insurance under the Motor Vehicles (Third Party Insurance) Law, Cap. 333, as amended by the Motor Vehicles (Third Party Insurance) (Amendment) Law, No. 7 of 1960, of the 7th July, 1960, covering the third party liability in respect of the said motor cycle. This policy covered the policy holder as well as any other person driving on the holder's order or with his permission, "provided the person driving holds a licence to drive the motor vehicle or has held and is not disqualified for holding or obtaining such a licence. The term 'Licence' means a licence or other permit required by the licensing authority or other laws or regulations". In the instant case, appellant No. 1 was driving with the permission of the appellant No. 2, the policy holder. On these facts the District Court convicted both appellants and sentenced them accordingly, the first for

driving, the second for permitting to drive, the motor vehicle in question without being covered by a policy of insurance in respect of third party risks contrary to section 3 (1) (2) of Cap. 333 (*supra*). On appeal by the accused the High Court, allowing the appeal against the aforesaid convictions,—

Held : (1) Upon the plain meaning of the words in the proviso and upon the evidence in this case, accused No. 1 (the driver) was a person who had held a licence, and was not at the time of apprehension disqualified from holding or obtaining a licence within the meaning of that term as defined in the certificate of insurance itself.

(2) This learner's permit, if it does not strictly come within the word "licence" at least comes within the words "other permit required by the licensing or other laws or regulations".

(3) Therefore, appellant No. 1 was not operating the motor cycle without the insurance coverage, as charged. It follows that the convictions (and sentences) of the appellants on the counts charging them with breaches of section 3 (1) and (2) of Cap. 333 (*supra*) should be quashed.

Appeals with regard to the convictions and sentences on the charges based on section 3 (1) and (2) etc., of Cap. 333 (supra), allowed.

Appeal against conviction and sentence.

Appellant No. 1 was convicted on the 15th June, 1963, at the District Court of Famagusta (Criminal Case No. 6827/62) on two counts of the offences of : 1. Driving a motor cycle without driving licence contrary to regulations 27 (1) and 66 of the Motor Vehicles Regulations, 1959 ; and 2. Using a motor cycle without being covered by a policy in respect of third party risks, contrary to s. 3 (1) (2) of the Motor Vehicles (Third Party Insurance) Law Cap. 333 and appellant No. 2 was convicted on two counts of the offence of : 1. Permitting appellant No. 1 to drive a motor cycle without a driving licence, contrary to regulations 27 (1) and 66 of the Motor Vehicles Regulations, 1959 and 2. Permitting appellant No. 1 to drive a motor cycle without being covered by a policy in respect of third party risks, contrary to s. 3 (1) (2) of the Motor Vehicles (Third Party Insurance) Law, Cap. 333 and were sentenced by Kourris D.J. as follows : Appellant No. 1 to pay a fine of £3 and £12 on counts 1 and 2 respectively and appellant No. 2

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to pay a fine of £3 and £12 on counts 3 and 4 respectively ; and both appellants were further disqualified from holding or obtaining a driving licence for a period of six months.

G. Ladas for the appellants.

S. A. Georghiades for the respondents.

The facts sufficiently appear in the judgment of the Court delivered by :

WILSON, P. : This is an appeal by two accused against their convictions and fines imposed by the District Court of Famagusta on June 15, 1963. Accused No. 1 was convicted of driving a motor cycle without a driving licence, contrary to regulations 27 (1) and 66 of the Motor Vehicles Regulations, 1959, and in respect of this conviction he was fined £3. He was also convicted of using a motor cycle without being covered by a policy in respect of third party risks, contrary to section 3 (1) (2) of the Motor Vehicles (Third Party Insurance) Law, Cap. 333, and in respect of this he was fined £12 and disqualified from holding or obtaining a driving licence for six months as from June 15, 1963.

The grounds of appeal are that the evidence adduced by the prosecution does not warrant a conviction and that the trial Court wrongly rejected the appellant's evidence and/or arrived at erroneous inferences ; that the Court wrongly decided that the appellant was not covered by a third party insurance and that the sentence was excessive.

This appellant possessed in 1959 a learner's driving licence to operate a motor cycle. This was not renewed, and at the time he was apprehended on October 20, 1963, he was not in possession of a licence to operate a motor cycle. There has been no serious argument on this appeal that he did have a licence, and that appeal therefore must be dismissed. We see no reason to interfere with the sentence that is imposed.

With respect to count No. 2, the facts are that the accused had been licensed as a learner to operate a motor cycle in 1959, and that the motor cycle he was operating when stopped by the police was owned by his brother, accused No. 2, with whose permission he was driving. Accused No. 2 also had in force on October 20, 1962, a valid certificate of insurance under the Motor Vehicles (Third Party Insurance) Law, 1954, covering the third party liability in respect of the motor cycle in question.

The legal point which has arisen is, whether or not the terms of this certificate of insurance, for the purposes of this proceeding, which I point out is a criminal proceeding, covered the accused No. 1. Primarily, classes of persons entitled to drive were : (a) the policy holder ; and (b) any other person who is driving on the policy holder's order or with his permission. In this case, the accused was driving with the policy holder's permission. Then we come to the proviso : " Provided that the person driving holds a licence to drive the motor vehicle or has held and is not disqualified for holding or obtaining such a licence. The term ' licence ' means a licence or other permit required by the licensing or other laws or regulations "

Counsel for the appellant has argued and counsel for the Attorney-General concedes that, upon the plain meaning of the words in the proviso and upon the evidence in this case, accused No. 1 was a person who had held a licence, and was not at the time of apprehension disqualified from holding or obtaining a licence within the meaning of that term as defined in the certificate of insurance itself. This learner's permit, if it does not strictly come within the word " licence " at least comes within the words " other permit required by the licensing or other laws or regulations "

The Act does not limit the time within which a person must have held a valid licence, nor by its wording does it require us to fix one. It may be pointed out that this accused is and has been the holder of a Class " D " driving licence, which permits him to operate vehicles of seven seats and less, since 1955.

Therefore, the accused No. 1 was not operating this vehicle without the insurance coverage, as charged, and this appeal, on count No. 2, will have to be allowed. The conviction and penalties will be set aside.

With respect to accused No. 2—the brother of accused No. 1—he took no steps to satisfy himself that his brother had no licence to operate a motor cycle and it is not seriously contended that he was not guilty of the offence charged against him ; and the appeal in respect of the first count as against accused No. 2 will be dismissed as well as the appeal against the penalty. With respect to count No. 2, for the reasons which have already been given in accused No. 1's appeal, this appeal must be allowed. The conviction and penalties all be set aside.

Appeals with regard to the convictions and sentences on the charges based on section 3 (1) and (2) etc., of Cap. 333 (supra), allowed.

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