

1967  
June 23

[VASSILIADES, P., TRIANTAFYLLOIDES AND JOSEPHIDES, JJ.]

ATTORNEY-  
GENERAL  
OF THE  
REPUBLIC  
v.  
COSTAS  
LAZAROU  
LAZARIDES

THE ATTORNEY-GENERAL OF THE REPUBLIC,

*Appellant,*

v.

COSTAS LAZAROU LAZARIDES,

*Respondent.*

(*Criminal Appeal No. 2927*)

*Criminal Procedure—Sentence—Appeal—Appeal against sentence by the Attorney-General on the ground that it is manifestly inadequate—Principles upon which the Appellate Court should approach appeals of this nature—Sentence increased—See, also, herebelow.*

*Criminal Law—Sentence—Stealing postal matter while in the public service—Obtaining money by false pretences—Contrary to sections 255, 264, 267, 297 and 298 of the Criminal Code, Cap. 154—Seriousness of the offences—Calling for a sentence of imprisonment—Sentence of £30 fine manifestly inadequate.*

*Sentence—Manifestly inadequate—See above under Criminal Procedure ; Criminal Law.*

*Appeals—Appeal against sentence by the Attorney-General—See above.*

This is an appeal against sentence, taken by the Attorney-General on the ground that the sentence of £30 fine, imposed on the respondent in the District Court of Larnaca, for stealing postal matter while employed in the public service, is manifestly inadequate, in the circumstances.

The Court after reviewing the facts of the case allowed the appeal and imposed a sentence of six months' imprisonment.

*Held*, (1) we find ourselves unable to allow the sentence of £30 fine imposed, to remain on record. The offence of which the respondent was convicted, on his own plea, carries a punishment of seven years imprisonment, which indicates sufficiently the intention of the legislator regarding punishment in this kind of offence.

(2) This Court has stated time and again the principles upon which appeals of this nature should be approached. We need hardly refer to any specific case ; but we may mention *The Attorney-General v. Neophytos Vasiliotis and Another* (reported in this Part at p. 20 *ante*).

(3) The most lenient sentence which we can impose in this case, taking into consideration the respondent's past good record and young age, is six months imprisonment from today.

(4) Sentences imposed by the trial Court on counts 2 and 3 set aside ; a sentence of six months imprisonment is imposed on each of these counts to run concurrently.

*Appeal allowed. Judgment  
and order as aforesaid.*

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Cases referred to :

*The Attorney-General v. Neophytos Vasiliotis and Another*  
(reported in this part at p. 20 ante, applied.

#### **Appeal against sentence.**

Appeal by the Attorney-General of the Republic against the inadequacy of the sentence imposed on the respondent who was convicted on the 11th May, 1967, at the District Court of Larnaca (Orphanides, D.J.) (Criminal Case No. 1610/67) on 2 counts of the offences of stealing by person in the Public Service, contrary to sections 255 and 267 of the Criminal Code Cap. 154, and of obtaining money by false pretences, contrary to sections 297 and 298 of the same Law and was sentenced to pay a fine of £30 on count 1 and was bound over in the sum of £100 for two years to come up for judgment on count 2.

*A. Frangos*, Counsel of the Republic, for the appellant.

*C. Paraskevas*, for the respondent.

The judgment of the Court was delivered by :

VASSILIADES, P.: This is an appeal against sentence, filed on behalf of the Attorney-General, on the ground that the sentence of £30 fine, imposed on the respondent in the District Court of Larnaca, for stealing postal matter while employed in the public service, is manifestly inadequate, in the circumstances.

The respondent, a young man of 23, temporarily employed at the Larnaca Post Office, stole a letter which came into his possession in the course of his employment, and converted into his own use two postal orders of £5 each, contained in the letter.

Investigations at the instance of the sender of the money, traced the postal orders at their origin abroad, and connected the respondent with the offence, as the person who had

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cashied the postal orders. This was several months after the commission of the offence. On the day following his arrest, the respondent volunteered a statement to the Police where he confessed committing the offence, under financial strain ; and, expressing apologies and regrets, the respondent offered to compensate the owner of the postal orders.

Charged on three grounds, (a) for stealing the postal matter in question ; (b) for stealing such matter while in the public service ; and (c) for obtaining money by false pretences, the accused pleaded guilty to all counts.

The case for the respondent, as presented by his advocate at the trial, was a plea in mitigation, on account of accused's young age, previous conduct, military service with good record, and an earlier case where on discovering bank notes concealed in the pages of a magazine from Africa, the respondent handed over the bank notes (of considerable value) to his superior officer. It was, moreover, urged on his behalf, that young as he was, the respondent was the supporter of his mother and family, whom the father had deserted, and was now abroad.

The trial Judge, reminding himself that this was a serious offence deserving "very serious punishment", as he put it in his note (page 2E of the record) decided that the "young age of the accused, his good character, and his circumstances" enabled the Court to avoid a sentence of imprisonment ; and imposed a sentence of £30 fine, or three months imprisonment in default, on count 2 ; no sentence on count 1 which refers to the same set of facts ; and ordered the accused to be bound over in the sum of £100 for two years to come up for judgment if called upon, on count 3. The Judge, moreover, made an order for the payment of £10 compensation to the complainant, or one month's imprisonment in default.

Learned counsel on behalf of the Attorney-General, submitted in this appeal, that notwithstanding the mitigating circumstances pertaining to the accused, (which apparently influence the learned trial Judge in reaching his decision) the sentence imposed for an offence of this nature was manifestly inadequate.

On behalf of the respondent, his advocate this morning put forward a well balanced plea in support of the sentence imposed by the trial Court ; and stressed again the social and other reasons for which this young man should be spared a sentence of imprisonment.

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Giving the matter our best consideration, we find ourselves unable to allow the sentence imposed, to remain on record. The offence of which the respondent was convicted, on his own plea, carries a punishment of 7 years imprisonment, which indicates sufficiently the intention of the legislator regarding punishment in this kind of offence. This Court has stated time and again the principles upon which appeals of this nature should be approached. We need hardly refer to any specific cases; but we may mention *The Attorney-General v. Neophytos Nicola Vasiliotis and Another*, (reported in this part at p. 20 ante).

We are unanimously of the opinion that this is a case which calls for a sentence of imprisonment. But in measuring the term, we met with considerable difficulty; particularly from the mitigating circumstances emanating from accused's good record in the past, and his young age. The most lenient sentence which we can impose in this case, is six months imprisonment from today. We hope this will not be taken as laying down any sort of precedent for the punishment of such offences, the nature of which is, indeed, very serious.

The appeal is allowed; the sentences imposed in the trial Court on counts 2 and 3 are set aside; a sentence of six months imprisonment is imposed on the respondent, on each of these counts, to run concurrently, from today. The order for compensation remains in force. Judgment and order accordingly.

*Appeal allowed. Judgment  
and order as aforesaid.*