

COSTAS ACHILLEOS PITTAS,

Appellant,

v.

THE POLICE,

Respondents.

COSTAS
ACHILLEOS
PITTAS
v.
THE POLICE

(Criminal Appeal No. 3036)

Criminal Law—Sentence—Stealing of a shop-bag containing some fruit and some bread of a total value of £0.550 mils, contrary to section 262 of the Criminal Code, Cap. 154—Appellant a recidivist with long record of similar previous convictions (72 such previous convictions)—Appellant's tendency to steal—Sentence imposed twelve months' imprisonment—Trial Judge did not direct his mind to the probability that the appellant, now aged 68 years, may be a medical case—Sentence of twelve months reduced into one of three months' imprisonment—Appellant given thus an opportunity to avail himself of the medical science in his great problem of controlling his tendency to steal.

Sentence—Appeal—Sentence reduced—Medical treatment—Recidivist—Opportunity should be given to the appellant to avail himself of the progress of medical science—See above.

Recidivist—Sentence—See above.

The appellant, aged 68, was convicted and sentenced to 12 months' imprisonment on a charge of stealing a shop-bag containing some fruit and bread of the total value of £0.550 mils. He is a recidivist having a long record of 72 similar previous convictions. It appears that the trial Judge did not direct his mind to the probability that the appellant may be a medical case. The Supreme Court reduced the sentence to 3 months' imprisonment so that the appellant may be given the opportunity to avail himself of the progress of medical science in his problem of controlling his tendency to steal.

Appeal allowed. Sentence of 12 months' imprisonment reduced to three months' imprisonment from the date of conviction.

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COSTAS
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Appeal against sentence.

Appeal against sentence by Costas Achilleos Pittas who was convicted on the 24th September, 1968, at the District Court of Nicosia (Criminal Case No. 19961/68) on one count of the offence of stealing contrary to section 262 of the Criminal Code, Cap. 154 and was sentenced by Vakis, D.J., to 12 months' imprisonment.

Appellant, appearing in person.

S. *Georgiades*, Counsel of the Republic, for the respondents.

The judgment of the Court was delivered by :

VASSILIADES, P. : This case presents no difficulty as far as the conviction is concerned. There is ample evidence to support the verdict ; and the appellant has, in our opinion, taken the right course in abandoning the appeal against conviction. He has asked the Court to treat his case as an appeal against sentence ; and counsel for the police has, quite properly in our opinion, raised no objection to this course. We shall, therefore, proceed to deal with the question of sentence.

The circumstances of the offence alone, do not call for the sentence of one year imprisonment imposed by the trial Judge. The appellant was convicted for the stealing of a shop-bag containing some fruit and some bread of the total value of £0.550 mils. The reason for which the learned trial Judge imposed a sentence of one year imprisonment on the appellant is his long record of previous convictions.

“ From his record (the trial Judge says) it appears that he was repeatedly given the opportunity to reform ; but he seems not to be willing or capable of being so reformed. In my view this man is a danger to society. And the sentence in his case should be mainly aimed at the protection of the public.”

Dealing with the accused as a recidivist dangerous to society, the learned trial Judge was justified in imposing twelve months imprisonment ; and this Court would not be inclined to interfere with the sentence as manifestly excessive. It is however, conceded on the part of learned counsel for the prosecution, that the trial Judge did not direct his mind to the probability that the appellant may be a medical case ; that is to say, a man whose mental faculties are in such a state as to place him rather on the medical side of the border-line between normal and abnormal persons.

We do not wish to enter into such a complicated problem with the material before us in this case ; and we must not be taken as attempting to do so. What we feel that we must do, is to take into consideration, in dealing with the sentence in this case, the possibility that the appellant at this late stage of his life (his age in the charge-sheet is given as 68) may deserve the help that medical science of the present day can give, to help him spend the last years of his life out of the prison walls, which he seems so strongly to desire. We feel that dealing with the man before us, we must give him every opportunity to avail himself of the progress of medical science in his great problem of controlling his tendency to steal. At the same time however, we must also bear in mind that the community is entitled to protection against persons who constitute a danger to property, whether that is due to a curable or incurable mental state.

It is with this approach that we feel inclined to use the sentence in this case, as an opportunity to the social and medical services of the government, to deal with the case of this very unfortunate man, who, fortunately, is a rare exception in this island.

According to the record, the appellant at the age of 68, has 82 previous convictions, of which 72 are similar. The courts have apparently made use of all kinds of sentences ranging from bonds to keep the peace to long terms of imprisonment, in order to help the appellant, as well as the community in which he lives, to face their respective problem. But there never seems to have been an attempt to deal with him as a medical case; and this is what we have in mind in considering the sentence in this appeal. We hope that by the time the sentence will expire there will be sufficient medical light on the case to enable the courts to deal with this man accordingly, if he falls into trouble again.

With these considerations in mind, we venture to hope that allowing the appeal and reducing the sentence to one of three months' imprisonment from the date of conviction, we make the sentence more commensurate with the circumstances of the offence, and perhaps more appropriate for medical observation and treatment, if any available, to the authorities concerned.

Appeal allowed. Sentence reduced to three months imprisonment from the date of conviction. The prison authority to be supplied with copy of the notes and judgment in this appeal.

Appeal allowed ; sentence reduced to three months' imprisonment.