

1969
Mar. 6

[VASSILIADES, P., TRIANTAFYLLIDES, JOSEPHIDES, JJ.]

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ANDREAS
KYRIACOU
VASSILIOU
v.
THE POLICE

ANDREAS KYRIACOU VASSILIOU,
Appellant,
v.
THE POLICE,
Respondents.

(Criminal Appeal No. 3072).

Criminal Law—Sentence—Sentence of twelve months' imprisonment for stealing contrary to section 262 of the Criminal Code, Cap. 154—Inadequate in view of the appellant's bad record—Increased to two years' imprisonment on appeal by the person convicted—Approach of the Court of Appeal in appeals against sentence.

Young offenders—Institutional treatment.

Sentence—Appeal against sentence—Sentence increased on appeal—See above.

Criminal Procedure—Sentence—Appeal against sentence—Approach of the Court of Appeal—Sentence increased.

Cases referred to :

Tryfona alias Aloupos v. The Republic, 1961 C.L.R. 246 ;
Savva v. The Republic (1968) 2 C.L.R. 218.

Appeal against sentence.

Appeal against sentence by Andreas Kyriacou Vassiliou, who was convicted on the 7th January, 1969, at the District Court of Limassol on one count of the offence of stealing contrary to section 262 of the Criminal Code, Cap. 154, and was sentenced by Kakathimis, D.J., to 12 months' imprisonment.

The appellant, appeared in person.

A. Frangos, Senior Counsel of the Republic, for the respondents.

The judgment of the Court was delivered by :—

VASSILIADES, P.: In this appeal against sentence, the appellant, a young man 19 years of age, complains against

1969
Mar. 6

—
ANDREAS
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VASSILIOU
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the sentence of 12 months' imprisonment imposed upon him in the District Court of Limassol for stealing a pair of trousers and two shirts from a hotel bedroom. He appeals on the ground that the sentence is manifestly excessive ; he presented his case before us this morning, in person.

The conviction is based on a plea of guilty which the appellant coupled with an apology for his conduct and a promise of never again.

The short facts of the case are that the appellant was found wearing one of the stolen shirts when arrested under a warrant for stealing a bicycle a few days earlier. He was charged for both offences ; he admitted them both ; he was convicted accordingly, and was sentenced to 12 months' imprisonment in the first, the Judge taking into consideration at appellant's request, both cases.

The reason for which the trial Judge imposed that sentence, is appellant's record of previous convictions. He has eleven of them, mostly similar ; housebreakings, larcenies and a burglary for which he received nine months' imprisonment at Limassol Assizes in October, 1966 ; and that was some six months after he had been put on probation for two years under the supervision of a probation officer. They were read out and admitted by the appellant. The learned trial Judge took the view that he had before him a regular young thief against whom the public were entitled to protection.

Appellant's case is that he is now engaged to be married. In fact, the social investigation report obtained for the purposes of this case, confirms this statement ; but it also contains considerable other information (read out to the appellant this morning) which shows that so far, he has reacted adversely to all attempts on the part of the authorities, as well as of his older brother, to keep him out of mischief.

Learned counsel for the Police, answering the appeal before us, submitted that, in the circumstances the sentence is inadequate ; and should be increased. Giving the matter all due consideration, we find ourselves in agreement.

The proper approach to the question of sentence was discussed in a number of cases. We may refer to *Charalambos Tryfona v. The Republic*, 1961 C.L.R. p. 246 ; and to a recent case *Antonios Savva v. The Republic* (1968) 2 C.L.R. 218, where the sentence was increased to meet the case.

1969

Mar. 6

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ANDREAS
KYRIACOU
VASSILIOU
v.
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While at large, the appellant is obviously a danger to himself, to others and to the community as a whole. He apparently needs institutional treatment. The kind of treatment and disciplined life which our prison services (medical, educational, welfare, etc.) can give a young prisoner of the age of the appellant. And he should have such treatment for sufficient time to give him a fair chance to get its benefit. Also sufficient time to learn a trade. The appellant said that he has already done some tailoring; he will have a good opportunity to complete his training.

Taking all relevant matters into consideration, we have reached the conclusion that the proper sentence in the case before us, is a term of two years' imprisonment from today.

The appeal against sentence is dismissed; and appellant's sentence is increased under the provisions of section 145 (2) of the Criminal Procedure Law, Cap. 155, to one of two years' imprisonment from today.

*Appeal dismissed; sentence
increased as above.*