

1970
Sept. 29

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

EFSTATHIOS
ECONOMIDES
v.
THE POLICE

EFSTATHIOS ECONOMIDES,

Appellant,

v.

THE POLICE,

Respondents.

(*Criminal Appeal No. 3196*).

Motor Traffic—Sentence—Disqualification order for two months for exceeding speed limit within a built up area—Bye-Laws 13 (o) and 16 of the Famagusta Municipal (Traffic) Bye-Laws 1953—Hardship to the appellant, an architect who has to travel in connection with his profession—Sentence varied in view of the special facts of the case and personal circumstances of the appellant.

Disqualification from holding a driving licence—See supra.

The facts sufficiently appear in the judgment of the Court allowing the appeal against the disqualification order and varying it under section 142 (2) of the Criminal Procedure Law, Cap. 155.

Appeal against sentence.

Appeal against sentence by Efstathios Economides who was convicted on the 27th August, 1970, at the District Court of Famagusta (Criminal Case No. 3435/70) on one count of the offence of exceeding the speed limit within a built up area contrary to Bye-laws 13(o) and 16 of the Famagusta Municipal (Traffic) Bye-Laws, 1953, and was sentenced by S. Demetriou, D.J., to pay a fine of £15 and he was further disqualified from driving for a period of two months.

L. Clerides with *E. Lemonaris*, for the appellant.

M. Kyprianou, Counsel of the Republic, for the respondents.

The judgment of the Court was delivered by:—

VASSILIADES, P. : This is an appeal against the part of a sentence consisting of a disqualification order for two months, imposed by the District Court of Famagusta on

the appellant, an architect, for exceeding the speed limit within a built up area, contrary to Bye-Laws 13 (o) and 16 of the Famagusta Municipal (Traffic) Bye-Laws, 1953. The sentence imposed was £15 fine and disqualification to drive for two months.

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When charged on June 25, 1970, the appellant pleaded not guilty; and the case was adjourned for hearing on July 22. On that date, the appellant sent in a medical certificate that he could not attend on medical grounds; and the case was further adjourned to August 27, when he appeared together with an advocate and by leave of the Judge, withdrew his first plea and pleaded guilty to the charge.

The facts presented to the Court were that on May 6, 1970, at 2.25 p.m. the accused was driving his car near—but still within—the speed limit sign of 30 m.p.h. in the outskirts of Famagusta municipal area, at a speed of 65 m.p.h. In mitigation, his advocate informed the Court that there was not much traffic on the road at the time; and that his client had overtaken a lorry where there were no side-roads and no danger. Counsel also informed the Court that the accused was an architect who needed his driving licence for his business.

The trial Judge taking into account all the relevant circumstances, and considering that the accused had a previous conviction for speeding about three years earlier—for which he was fined £2—took the view that he would be failing in his duty if he did not disqualify the appellant for a short period; and imposed the sentence described above.

The appeal is directed against the disqualification order; mainly on the ground that, in the circumstances, it is a very severe sentence, considering the hardship which it causes to the appellant who has to travel a great deal in connection with his profession.

It is unfortunate that the appellant, a man of his professional qualifications and standing, did not think of the probability of losing his driving licence by using it in that fashion. Be that as it may, however, both counsel now appearing on his behalf before us, assured us that the consequences of the disqualification order for the period of one month which has already elapsed since the date of the sentence, have taught the appellant a hard lesson; a lesson which, counsel further assured us, will always be in their

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client's mind when he sits at the wheel. We hope that this will be so; and that the trial judge's sentence—which we think that it was an excessive one in the light of the particular facts of this case—has really served its purpose. The deterrent effect of this particular sentence, appears to have been produced; both as far as this appellant is concerned, and as far as others of his ilk, who may wish to be benefited by the warning it sounds.

Taking into account the special facts of this case as well as the personal circumstances of the appellant, we have eventually reached the conclusion—not without difficulty—that we can at this stage, vary the sentence under section 145 (2) of the Criminal Procedure Law (Cap. 155), to one of £15 fine, coupled with a disqualification order from conviction till the end of September, 1970, and a bond in the sum of £50 for six months to keep the peace and particularly the traffic laws and regulations. On signing of the bond the licence may be returned, endorsed accordingly.

Appeal allowed; sentence varied as above.