

[TRIANTAFYLIDIS, P., STAVRINIDES, HADJIANASTASSIOU, JJ.]

1971  
June 8

ANDREAS IACOVOU,

*Appellant,*

v.

—  
ANDREAS  
IACOVOU  
v.  
THE POLICE

THE POLICE,

*Respondents.*

*(Criminal Appeal No. 3253).*

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*Children Law Cap. 352—Wilfully neglecting one's children—Section 54(1) of the Law—Sentence of imprisonment for three months—In cases of this nature a sentence of imprisonment may be self-defeating, if it is longer than necessary—Because it prevents the delinquent father from working and, therefore, from being in a position to maintain his children—A rather shorter sentence, six weeks' imprisonment, held to be sufficient in the circumstances of this case.*

*Sentence—Appeal—Sentence of imprisonment in cases of wilfully neglecting one's children—The Children Law Cap. 352, section 54(1)—Sentence of three months' imprisonment reduced on appeal to one of six weeks' imprisonment—See further, hereabove.*

The facts of this case sufficiently appear in the judgment of the Court, allowing this appeal against sentence of three months' imprisonment and reducing it to one of six weeks' imprisonment.

**Appeal against sentence.**

Appeal against sentence by Andreas Iacovou who was convicted on the 5th May, 1971 at the District Court of Limassol (Criminal Case No. 2175/70) on one count of the offence of wilfully neglecting his children contrary to section 54(1)(2) of the Children Law, Cap. 352 and was sentenced by Loris, D.J. to three months' imprisonment.

Appellant appeared in person.

*Cl. Antoniadis*, Counsel of the Republic, for the Respondents.

The judgment of the Court was delivered by:—

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TRIANAFYLLIDES, P.: In this case the Appellant, who is thirty-five years old, was sentenced by a District Judge at Limassol to three months' imprisonment for having, contrary to section 54(1) of the Children Law, Cap. 352, wilfully neglected his five minor children "in a manner likely to cause unnecessary suffering or injury to their health by failing to provide them with adequate food and clothing".

When he appeared for the first time before the Court below in relation to this matter, on the 27th March, 1970, the Appellant pleaded guilty and undertook to pay £6 per week towards the maintenance of his children; the Court bound him over in the sum of £100 for two years to come up for judgment if and when called upon; and it was stated, as it appears from the Court's record, that he would not be called upon as long as he continued to pay £6 per week—commencing on the 28th March, 1970—through the District Welfare Office.

The Appellant failed to honour regularly his aforesaid undertaking, although he was earning as a mason between £12 and £15 per week. Eventually, he was taken again before the Court on the 5th May, 1971. At the time the total of the weekly contributions, for the maintenance of his children, which he had failed to pay amounted to £162. The Court regarded him as "incurable" and "intentionally" avoiding to maintain his children and sentenced him to three months' imprisonment.

We take the view that the learned trial Judge was quite right in sending the Appellant to prison as, *inter alia*, he had to be made to realize that he could not disregard with impunity his responsibilities towards his children. On the other hand, in cases of this nature a sentence of imprisonment may be self-defeating if it is longer than necessary, because it prevents the delinquent father from working and, therefore, from being in a position to maintain his children. We are, therefore, inclined to think that a rather shorter sentence, one of imprisonment for six weeks, is sufficient in the circumstances; and we hope that this will be the last time when the Appellant, who is otherwise a first offender, appears before a Court for such, or any other, offence.

In the result, the appeal is allowed and the sentence is reduced to one of six weeks' imprisonment as from the date when the Appellant was sent to prison.

*Appeal allowed.*