

1972

Jan. 4

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NIKI ANDREOU  
v.  
THE REPUBLIC

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

NIKI ANDREOU,

*Applicant,*

v.

THE REPUBLIC,

*Respondent.*

(Criminal Application No. 6/71).

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*Criminal Procedure—Appeal—Time—Extension of time to file appeal—Section 134 of the Criminal Procedure Law, Cap. 155—Discretion of the Court—Test applicable—“Good cause”—Appeal filed one day after expiration of relevant time limit—Counsel for Applicant thinking that one of the two Sundays included in such time limit would not count in computing it—Court not satisfied that, in the circumstances, good cause was shown for exercising its discretion in favour of the Applicant—Application for extension of time refused.*

*Criminal Appeal—Time—Extension of time—Discretion of the Court—Test applicable—See supra.*

Cases referred to:

*Peter v. The Police* (1963) 1 C.L.R. 42;

*Djeredjian v. The Republic* (1967) 2 C.L.R. 136;

*The Attorney-General v. HijConstanti* (1968) 2 C.L.R. 113;

*Pullen v. The Republic* (1969) 2 C.L.R. 199;

*Ward*, 55 Cr. App. R. 509;

*Doherty*, 55 Cr. App. R. 548.

The Supreme Court refused this application for extension of time to file an appeal in this criminal case. The facts and reasons sufficiently appear in the judgment of the Court.

**Application for extension of time.**

Application for an order extending the time within which

the Applicant may file an appeal against her conviction by the Assize Court of Nicosia, dated the 5th November, 1971, in Criminal Case No. 9652/71, of the offence of homicide under section 205 of the Criminal Code Cap. 154.

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T. Papadopoulos, for the Applicant.

S. Nicolaides, Counsel of the Republic, for the Respondent.

The following judgment was delivered by:—

TRIANTAFYLIDIS, P.: This is an application for extension of the time within which to file a notice of appeal against a conviction by a Nicosia Assize Court; the application has been made under section 134 of the Criminal Procedure Law, Cap. 155, which empowers this Court to grant an extension of time “on good cause shown”.

The approach of this Court to the exercise of its discretion under section 134 is to be found, *inter alia*, in the judgments in the cases of *Peter v. The Police* ((1963) 1 C.L.R. 42), *Djeredjian v. The Republic* ((1967) 2 C.L.R. 136), *The Attorney-General v. HjiConstanti* ((1968) 2 C.L.R. 113) and *Pullen v. The Republic* ((1969) 2 C.L.R. 199); the Court has consistently taken the view that the relevant time-limit has to be strictly adhered to and that an extension is to be granted only exceptionally if the Court is satisfied by an Applicant that there does really exist good cause for doing so.

In the *HjiConstanti* case (*supra*, at p. 117) Vassiliades, P., has stated the following in dealing with an application such as this one:—

“Generally speaking, where the legislator sets a period of time for the taking of a step in proceedings of a judicial character, such provision must be strictly enforced. It is connected with the public interest in the finality of litigation; and it affects directly the parties’ rights therein.

Here the legislator not only made provision as to the time within which such an appeal can be taken but in giving power to the Supreme Court to extend the time so prescribed he provided that such power shall only be exercised when ‘good cause’ for extension has been shown”.

Useful guidance may be found, also, in two similar cases

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decided recently by the Court of Appeal in England: In the case of *Ward* (55 Cr. App. R. 509) it was stressed by Widgery, C.J. that “it is necessary that time-limits should be treated with respect”; and in the case of *Doherty* (55 Cr. App. R. 548) it was stated, again by Widgery, C.J., that “in general principle the power to extend time under rule 12 should be very rarely used”—(by rule 12 of the Criminal Appeal Rules 1968 provision is made about the renewal before the full Court of an application for leave to appeal which has been refused by a single Judge of the Court).

In the present instance the ground relied on by the Applicant for obtaining an extension of time is that the notice of appeal was presented for filing on the 16th November, 1971, one day after the expiration of the relevant time-limit because there were included two Sundays in such time-limit and, though neither of them was either the first or the last day of the time-limit, counsel for the Applicant erroneously thought that one of the Sundays would not count in computing the time-limit. Counsel explained that ever since he was informed by the Registry that he was out of time as regards filing the notice of appeal he has been considering whether it would be possible to argue the point that one of the Sundays could be ignored in computing the time-limit and as, in the meantime, he had to be away from Cyprus he eventually filed the present application on the 21st December, 1971.

On the basis of the above we have not been satisfied that, in the circumstances, good cause was shown for exercising, in the light of the correct approach to a matter of this nature, our discretion in favour of the Applicant and, therefore, we should refuse this application, which is dismissed accordingly.

*Application dismissed.*