

1980 October 20

[TRIANTAFYLLIDES, P., L. LOIZOU, DEMETRIADES, JJ.]

CONSTANTINOS P. CONSTANTINOU,

Appellant,

v.

THE POLICE,

Respondents.

(*Criminal Appeal No. 4154*).

Criminal Law—Sentence—Driving without a circulation licence and without third party insurance—Ten months' disqualification—Excessive in the light of mitigating factors put forward for first time before Court of Appeal—Reduced.

5 This was an appeal against the sentence of disqualification from driving for a period of ten months which was imposed on the appellant after pleading guilty to the offences of using a motor-cycle without a circulation licence and without third party insurance.

10 The appellant failed to refer to any mitigating factors at the trial because he was unrepresented and such mitigating factors were put forward by his counsel in this appeal (vide p. 242 *post*). Counsel for the respondents has not disputed any of the mitigating factors and conceded that the period of disqualification
15 appeared to be excessive.

The Court of Appeal having in mind all the above decided to reduce the period of disqualification to five months.

Appeal allowed.

Appeal against sentence.

20 Appeal against sentence by Constantinos P. Constantinou who was convicted on the 25th June, 1980 at the District Court of Larnaca (Criminal Case No. 3998/80) on one count of the offence of using a motor-cycle without a circulation licence contrary to regulations 16(1) and 71 of the Motor Vehicles
25 and Road Traffic Regulations, 1973 and on one count of the offence of using a motor-cycle without third party insurance contrary to section 3 of the Motor Vehicles (Third Party Insurance) Law, Cap. 333 (as amended by Law 7/60) and was sentenced by Michaelides, D.J. to pay a fine of C£5.— and C£25.—,

respectively, and was disqualified from holding or obtaining a driving licence for a period of ten months.

A. Koukounis, for the appellant.

R. Gavrielides, Counsel of the Republic, for the respondents.

TRIANAFYLLIDES P. read the following judgment of the Court. 5
The appellant has appealed against a sentence of disqualification from holding or obtaining a driving licence for a period of ten months which was imposed on him after he had pleaded guilty to the offences of using on August 20, 1980, a motor-cycle without a circulation licence and, also, without third party 10 insurance. In addition to the aforesaid sentence of disqualification he was ordered to pay fines of C£5 and C£25, respectively, but he has not appealed in respect of them.

It has been contended on behalf of the appellant that the length of the period of disqualification is manifestly excessive 15 in the light of the circumstances of the present case.

The appellant appeared before the trial Court without being represented by counsel and so it was only today that counsel has had the opportunity of referring to mitigating factors which the appellant failed to mention before sentence was passed 20 upon him by the trial Judge.

It seems that the appellant is the owner of another motor-cycle in respect of which, as has been stated by his counsel, the appellant had, at the material time, a circulation licence and which was covered by third party insurance. On the date 25 in question the appellant exchanged motor-cycles with a friend of his and so he was found to be driving his friend's motor-cycle in respect of which there existed neither a circulation licence nor third party insurance.

The appellant is employed as an electrician at the local office 30 in Larnaca of the Ministry of Communications and Works and he uses his motor-cycle for moving around in Larnaca for the purposes of his work.

Counsel appearing for the respondents has not disputed any of the above mitigating factors and has very fairly conceded 35 that this is, indeed, a case in which the period of disqualification appears to be excessive.

Bearing all the foregoing in mind we have decided to reduce the period of disqualification to five months and this appeal 40 is allowed accordingly.

Appeal allowed.