

CASES
DECIDED BY
THE SUPREME COURT OF CYPRUS
ON APPEAL
AND
IN ITS ORIGINAL JURISDICTION

Cyprus Law Reports

Volume 2 (Criminal)

1984 January 12

[A. LOIZOU, SAVVIDES AND PIKIS, JJ.]

MARO MICHAELIDOU,

Applicant.

v.

THE DISTRICT OFFICER, LARNACA.

Respondent.

(*Criminal Application No. 1/83*).

5 *Criminal Procedure—Appeal—Extension of time within which to
appeal—“Good cause” for extension must be shown—Illness
of applicant six days after her conviction—Does not constitute
a good cause for granting the extension—Section 134 of the Cri-
minal Procedure Law, Cap. 155.*

10 This was an application for an order extending the time for
the filing of an appeal against the conviction and sentence of
the applicant by the District Court of Larnaca on the 19.12.1983
on charges relating to the non-compliance with the terms of
15 a permit issued for the sinking of a well, contrary to sections
3(3), 13(1) and (2) of the Wells Law, Cap. 351.

The ground upon which the applicant sought the above order

was that on the 24th December, that is to say, six days after her conviction and sentence, she became ill with pneumonia, she was running at high temperatures and that she recovered and she was only able to communicate with and instruct her present lawyer on the 29th of December, that is a day after the expiration of the time limit set by the Law and that this application was filed on the following day. 5

Held, that the power to extend the time shall only be exercised where "good cause" for extension has been shown (see section 134 of Cap. 155); that what is a "good cause" depends on the facts and circumstances of the particular case; that bearing always in mind that the time limits for the taking of procedural steps laid down by the legislator aim at bringing about a finality in judicial proceedings, this Court has come to the conclusion that the circumstances relied upon by the applicant cannot be considered as constituting a good cause for granting the extension applied for because she had ample time to contact and instruct her counsel for the filing of a notice of appeal within the prescribed time limit; accordingly the application must fail. 10 15

Application refused. 20

Cases referred to:

Attorney-General of the Republic v. Hadjiconstanti (1968) 2 C.L.R. 113;

Djeredjian & Another v. Republic (1967) 2 C.L.R. 136;

Pullen & Another v. Republic (1969) 2 C.L.R. 119; 25

Andreou v. Republic (1972) 2 C.L.R. 4;

Papadopoulos v. Police (1982) 2 C.L.R. 217.

Application.

Application for the extension of time within which to file an appeal against conviction and sentence of the applicant by the District Court of Larnaca. 30

E. Efstathiou, for the applicant.

Ch. Kyriakides, Counsel of the Republic, for the respondent.

A. LOIZOU, J. gave the following judgment of the Court. This is an application for extension of time for the filing of an appeal against the conviction and sentence of the applicant by the 35

District Court of Larnaca on charges relating to the non-compliance to the terms of a permit issued for the sinking of a well, contrary to sections 3(3), 13(1) and (2) of the Wells Law, Cap. 351.

5 The applicant and another person who is not a party to these proceedings were present at the trial which took place on the 19th of December, 1983 and were duly represented by counsel. They both pleaded guilty to the charges and the applicant was sentenced to pay C£30.- fine and ordered to fill in the well in
10 question within one month from the date of conviction unless a covering permit was granted in the meantime.

The ground upon which the applicant seeks an order of the Court for extension of time is that on the 24th December, that is to say, six days after her conviction and sentence, she became
15 ill with pneumonia, she was running at high temperatures and that she recovered and she was only able to communicate with and instruct her present lawyer on the 29th of December, that is to say, a day after the expiration of the time limit set by the Law and that the present application was filed on the following
20 day.

Section 134 of the Criminal Procedure Law, Cap. 155, which under certain circumstances confers jurisdiction to this Court to extend the time within which an appeal may be filed reads:

25 "Except in the case of a conviction involving sentence of death, the time within which notice of appeal or application for leave to appeal may be given may, on good cause shown, be extended at any time by the Supreme Court."

Extending the time for appeal is obviously a matter of discretion and the power must be exercised in the interest of justice.
30 As pointed out in *The Attorney-General of the Republic v. Hadji-constanti* (1968) 2 C.L.R. 113, "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
35 of litigation; and it affects directly the parties' rights therein". And then particularizing as regards section 134, it was stated that "... the legislator not only made provision as to the time within which 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 where 'good cause' for extension has been shown."

The question of extension of time has been dealt with by this Court in a number of cases and reference may be made, *inter alia*, to *Djeredjian & Another v. The Republic* (1967) 2 C.L.R. 136; *P. Pullen & Another v. The Republic* (1969) 2 C.L.R. 119; *Niki Andreou v. The Republic* (1972) 2 C.L.R. 4; and more recently in the case of *Papadopoulos v. The Police* (1982) 2 C.L.R. 217, where it is pointed out that what is a "good cause" depends on the facts and circumstances of the particular case.

In the present case and bearing always in mind that the time limits for the taking of procedural steps laid down by the legislator aim at bringing about a finality in judicial proceedings, we have come to the conclusion that the circumstances relied upon by the applicant cannot be considered as constituting a good cause for granting the extension applied for. The applicant had ample time to contact and instruct her counsel for the filing of a notice of appeal within the prescribed time limit.

For all the above reasons the application is, therefore, refused.

Application refused.