

1986 November 13

[A. LOIZOU, DEMETRIADES, KOURRIS, JJ.]

ANDREAS EFTHYMIU ANTONIOU,  
ALIAS "TELLAS",

*Appellant,*

v.

THE REPUBLIC,

*Respondent.*

*(Criminal Appeal No. 4755).*

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*Sentence—Burglary and theft (£71 in cash) contrary to s. 292(a) of the Criminal Code, Cap. 154—Appellant, aged 26, had three similar previous convictions—Two similar outstanding offences taken into consideration—Plea in mitigation based on his psychological condition—Three years' imprisonment—Sentence on the lenient side.*

The appellant, who was sentenced for the aforesaid offence to three years' imprisonment, filed the present appeal, complaining that the sentence is excessive. The appellant had three previous convictions for offences of similar nature. In passing sentence the Assize Court took into consideration two similar outstanding offences. Appellant's plea in mitigation was based on his psychological condition.

*Held, dismissing the appeal:* (1) This Court has repeatedly stressed the seriousness of offences of house-breaking and shop-breaking with which we are alarmingly confronted and has emphasized the need for sentences containing also the element of deterrence.

(2) In the circumstances the sentence imposed is on the lenient side.

*Appeal dismissed.*

**Appeal against sentence.**

Appeal against sentence by Andreas Efthymiou Antoniou alias Tellas who was convicted on the 3rd June, 1986 at the Assize Court of Limassol (Criminal Case No. 1925/86) on one count of the offence of burglary and theft contrary to section 292(a) of the Criminal Code, Cap. 154 and was sentenced by Hadjitsangaris, P.D.C., Artemis, S.D.J. and Hadjihambis, D.J. to three years' imprisonment.

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*A. Georghiou*, for the appellant.

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*A. Vassiliades*, for the respondent.

A. LOIZOU J. gave the following judgment of the Court. This is an appeal against the sentence of three years' imprisonment imposed on the appellant by the Assize Court of Limassol upon his being found guilty on his own plea, of a charge of burglary and theft contrary to Section 292 (a) of the Criminal Code, Cap. 154.

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As stated in the particulars of the offence, the appellant on the 7th January 1986, at Limassol, at night-time did break and enter a building used as a human dwelling by one Vassiliki Iacovou of Limassol, with intent to commit a felony therein, to wit, he stole therefrom the sum of £71.- in cash the property of the said Vassiliki Iacovou.

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The appellant is twenty-six years of age single and resides in Limassol with his parents. He is casually employed as a decorator.

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On the 7th January, 1986, at 5.00 p.m. the complainant left with her husband her house after securing all doors and windows. She returned home at about 10:00 p.m. but she noticed nothing unusual and went to bed. On the following morning she looked for her money, that is £71.- which she kept in a drawer but they were missing. The matter was reported to the Police as she had noticed that someone had gained access into the house

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through the bedroom window after stepping on a plastic dustbin.

5 On the 21st January, 1986, the appellant was arrested on the strength of a judicial warrant. he was interrogated and confessed to this offence and to two other similar offences. He led the Police to the house of the complainant and indicated to them that he had entered into it pushing upwards the rolling shutters of the bed-room window.

10 The appellant in spite of his age has a number of previous convictions of a similar nature. On the 7th May, 1980, he was convicted for burglary to one year imprisonment. On the 29th May, 1982, for burglary and stealing, he was convicted and sentenced to two years imprisonment.  
15 On the 16th June 1984 for house-breaking and stealing in Nicosia, he was convicted and sentenced to twelve months imprisonment. He was released from prison on the 3rd April 1985.

20 The appellant through his advocate prayed for leniency in the Court below basing his plea of mitigation, and his contention in this Court that the sentence imposed is manifestly excessive, on his psychological condition. The Assize Court in passing sentence took into consideration two similar offences. They stressed the need for the individualisation of sentences and at the same time they felt  
25 that they had a duty to protect society from people with a bad criminal record and who had failed to show any real reform. It is obvious from the judgment of the Assize Court that all relevant considerations were duly taken into  
30 account.

This Court has repeatedly stressed the seriousness of offences of house-breaking and shop-breaking with which we are alarmingly confronted and has emphasised the need for sentences that should contain also the element  
35 of deterrence.

On the totality of the circumstances of this case we have come to the conclusion that the sentence imposed on the appellant, far from being manifestly excessive is in our view rather on the lenient side and we have not been persuaded that we should interfere with it.

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For all the above reasons the appeal is dismissed.

*Appeal dismissed.*