

1986 September 29

(TRIANAFYLLIDES P LORIS KOURRIS JJ)

MICHAEL YOUSEF KHALIFEH,

Appellant,

v

THE POLICE,

Respondents

(Criminal Appeal No 4727)

Sentence — Possessing 485 grams of heroin and trafficking in narcotics — Appellant, an alien 30 years' old, cooperated, after his arrest, with the police — 4 years' imprisonment — Weight of mitigating circumstances ought to be very small - Primary concern of the Courts in cases of this kind should be the punitive as well as the deterrent effect of the sentence — Sentence upheld

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The facts sufficiently appear in the Judgment of the Court

Appeal dismissed

Cases referred to

Sultan v The Republic (1983) 2 C L R 121,

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El-Etn v The Republic (1985) 2 C L R 40

Appeal against sentence.

Appeal against sentence by Michael Yousef Khalifeh who was convicted on the 13th January, 1986 at the Assize Court of Larnaca (Criminal Case No 11946/85) on one count of the offence of possessing and trafficking of narcotic drugs contrary to sections 2, 3, 6(1)(3), 30 and 31 of the Narcotic Drugs and Psychotropic Substances Law, 1977 (Law No 29 of 1977) and was sentenced by Papadopoulos, P D C , Constantinides, S D J and Eliades, D J to four years' imprisonment

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20 Appellant appeared in person

No appearance for the respondents

TRANTAFYLLIDES P. gave the following judgment of the Court. This appeal was made on 17 January 1986 by the appellant, from the Central Prisons, against the sentence of four years' imprisonment as from 22 October 1985, which was passed upon him by the Lamaca Assize Court on 13 January 1986, when he pleaded guilty to the offences of possessing and trafficking in narcotic drugs. 5

The appellant was found in possession of 485 grams of heroin on 22 October 1985 as he was about to leave Lamaca Airport for Paris, after he had come to Cyprus on the same day, by sea, from Lebanon. He was arrested and he has been in custody ever since. 10

The appellant was, at the time of the commission of the offence, thirty years old and is a mechanical engineer.

He gave a statement to the Police stating that he was not earning enough in Lebanon to support his family and that he had decided to be involved in the trafficking of narcotics in order to earn illicitly money for the sake of his family. 15

The appellant's wife and minor child live in Vienna. The appellant was residing in Beirut with his parents.

It has been very fairly stated by the prosecution at the trial Court that the appellant after his arrest cooperated with the Police as much as he could. 20

In, *inter alia*, *Sultan v. The Republic*, (1983) 2 C.L.R. 121 and *El-Etri v. The Republic* (1985) 2 C.L.R. 40, our Supreme Court has had occasion to stress the seriousness of offences involving narcotics and that they must be punished with due severity. 25

We do appreciate that this appellant has certain mitigating circumstances in his favour, but their weight ought to be very small because in cases of this nature the Courts should be primarily concerned with assessing sentences of imprisonment entailing severe punishment for persons involved in narcotic drug offences and, also, sentences which will act as effective deterrence against the commission of similar offences by other persons in future. 30

We find that the sentence which was passed upon this appellant serves well both the aforesaid purposes and we cannot treat it as being either manifestly excessive or wrong in principle. 35

The fact that the appellant is an alien and will be serving a long sentence of imprisonment here in Cyprus away from his country and his family is a matter to be dealt with, if necessary, in the exercise of the powers of the President of the Republic under
5 Article 53.4 of the Constitution.

Appeal dismissed.