

1985 June 25

[TRIANTAFYLIDIS P. PIKIS KOURRIS JJ]

STEPHANOS LOIZIDES

Applicant

v

THE REPUBLIC

Respondent

(Criminal Application No 3/85)

Appeal - Criminal appeal -- Time within which to file the notice of appeal -- Extension of -- Notice filed at the wrong Registry, but within time -- Circumstances justify extension of time for its proper filing

The applicant filed within time an appeal against his conviction at the Registry of the District Court of Paphos instead of at the Registry of the Supreme Court 5

As a result the present application for extension of time within which to file properly a notice of appeal was filed

Held *granting the application that in the light of the case law and the circumstances of this case the extension would be granted* 10

Order extending the time within which to file an appeal for a period of 7 days as from to-day

Cases referred to 15

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

Attorney General v HjiConstanti (1968) 2 C L R 113

Djeredjian v Republic (1967) 2 C L R 136,

Pullen v Republic (1969) 2 C L R 199,

Papadopoulos v Police (1982) 2 C L R 217

Application.

Application for the extension of the time within which to file an appeal against conviction.

A. Magos, for the applicant.

- 5 No appearance for the respondent.

Cur. adv. vult.

10 TRIANTAFYLIDIS P. read the following decision of the Court. By means of this application the applicant, who was convicted by an Assize Court in Paphos, seeks an extension of the time within which to appeal against conviction.

The present application was made *ex parte* and, by direction of this Court, copy of it was delivered by way of notice at the Office of the Attorney-General of the Republic, but there did not appear today counsel on behalf of the Republic.

- 15 The applicant was convicted on 14 May 1985 and on 21 May 1985, that is within the ten days' period during which the appellant could appeal, a notice of appeal against the conviction of the applicant was filed at the Registry of the District Court of Paphos, instead of being filed, as it ought to have been done, at the Registry
20 of the Supreme Court.

As a result the present application was filed on 13 June 1985 seeking, on the basis of section 134 of the Criminal Procedure Law, Cap. 155, a ten days' extension of time within which to properly a notice of appeal.

- 25 In order to grant an extension of the time within which an appeal against conviction or sentence is to be filed this Court must be satisfied that there exists good cause justifying the exercise of its discretion in favour of the applicant (*see, inter alia*, in this respect,
30 *Peter v. The Police*, (1963) 1 C.L.R. 42, *The Attorney-General v. HjiConstanti*, (1968) 2 C.L.R. 113, *Djeredjian v. The Republic*, (1967) 2 C.L.R. 136, *Pullen v. The Republic*, (1969) 2 C.L.R. 199 and *Papadopoulos v. The Police*, (1982) 2 C.L.R. 217).

- 35 A situation practically the same as that in the present case arose in the *Pullen* case, *supra*, where the notice of appeal was filed by mistake in a District Court Registry and was forwarded by it to the Supreme Court and, eventually, this Court extended the time within which to appeal.

In the light of the case-law of this Court and bearing in mind that the applicant as a result of his conviction was sentenced to twelve years' imprisonment and that the notice of appeal was filed at the District Court of Paphos only seven days after his conviction, we have decided to extend the time for the filing by him of an appeal 5
for a period of 7 days as from day

Application granted