

1987 February 26

[TRIANAFYLIDIS, P., LORIS STYLIANIDES, JJ]

PANICOS SOTERIOU SAVVIDES,

Appellant,

v

THE POLICE,

Respondents

(Criminal Appeal No. 4816)

Sentence—Breaking and theft (of articles valued at £49) contrary to s 294(a) of the Criminal Code, Cap 154—Fifteen outstanding offences of similar nature as well as previous convictions taken in consideration—Appellant aged 19—Twelve months’ imprisonment—Rather lenient

The sole ground of this appeal is that the sentence of twelve months’ imprisonment of the appellant for the above offence is manifestly excessive in view of his young age. In passing sentence the trial Court took into consideration fifteen outstanding offences of similar nature, the seriousness of the offence, the previous convictions of the appellant and the institutional treatment he received, as well as his personal circumstances

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Held, dismissing the appeal (1) The task of this Court is not to assess, but to review the sentence

(2) There was no failure on the part of the trial Court to individualise the sentence. The sentence is rather on the lenient side

Appeal dismissed

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Cases referred to:

Antonides v The Police (1986) 2 C L R 21,

Nicolaou v The Police (1985) 2 C L R 52

Appeal against sentence.

Appeal against sentence by Panicos Soteriou Savvides who was convicted on the 28th November, 1986 at the District Court of Limassol (Criminal Case No.29767/86) on one count of the offence of office breaking and theft contrary to section 294(a) of

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the Criminal Code, Cap 154 and was sentenced by Artemis, S D J to twelve months' imprisonment

G Kaizer, for the appellant

St Theodoulou, for the respondents

5 TRIANTAFYLLIDES P The Judgment of the Court will be delivered by Lons J

10 LORIS J The present appeal is directed against the sentence of twelve months' imprisonment imposed by the District Court of Limassol (P Artemis S D J) in Limassol Criminal Case No 29767/86, on the appellant, for the offence of breaking and theft contrary to the provisions of s 294(a) of the Criminal Code Cap 154

15 The appellant aged 19 was jointly charged with another person (Ex-accused 1) aged 18, with breaking and entering between the 27th and 28th day of October 1986 the factory of PANCYPRIA ETERIA ARTOPION Ltd in Limassol and stealing therefrom various articles valued at £49 - Both, appellant and ex-accused No 1, who is not before us, pleaded guilty to the aforesaid charge

20 At the request of the appellant 15 outstanding cases of similar nature were taken into consideration by the Court below in passing sentence on him

The sole ground upon which the present appeal is taken is that the sentence is manifestly excessive, in particular in view of the age of the appellant

25 It has been repeatedly stressed in the past and it was recently reiterated in the case of *Antoniades v The Police* (1986) 2 C L R 21 that our task on appeal is to review the sentence and not to assess it, the assessment of sentence is the province of the trial court

In the instance under consideration the learned trial judge took

into consideration the seriousness of the offence to which the appellant pleaded guilty, the fifteen outstanding offences of similar nature which the appellant invited the court to take into consideration, the previous convictions of the appellant and the institutional treatment he received, as well as all the personal circumstances befitting the appellant. 5

There was no failure on the part of the trial Court to individualise sentence; he took into consideration, as it is apparent from the judgment, the condition of the leg of the appellant as well, who had a traffic accident prior to his trial. The trial judge rightly stressed that breaking and theft has assumed proportions of a social evil and emphasized the deterrent effect of the sentence in the circumstances. 10

We hold the view that the sentence is rather on the lenient side. In the case of *Nicolaou v. The Police* (1985) 2 C.L.R. 52 we had no difficulty in upholding a sentence of three years' imprisonment for the same offence imposed on a soldier aged 20. In the case aforesaid I had the opportunity of stating that «the young age of the offender cannot afford an excuse for such kind of criminal behaviour» stressing at the same time that the enforcement of the Law «falls squarely on the shoulders of the Courts who must not flinch in discharging such duty.» 15 20

During the hearing of this appeal learned counsel for appellant submitted inter alia that the appellant should be examined by a specialist in connection with the condition of his leg. We allowed an adjournment directing the examination of the appellant by a specialist of his choice, namely Doctor Savvides, Senior Specialist in Orthopaedic Surgery. 25

To-day we have before us the report of the Doctor in question; it is abundantly clear from the report that «arthrodesis» is needed and such operation can be carried out in Limassol Hospital as well. In the circumstances we trust that the Prison Authorities will see that such an operation on appellant is carried out either in Limassol Hospital or at the Nicosia General Hospital, if the 30

appellant so wishes, pursuant to the Medical Report produced.

In the result the appeal is hereby dismissed

Appeal dismissed.