

1988 April 25

(MALACHTOS, STYLIANIDES, PIKIS, JJ.)

CHRISTOS CHARALAMBOUS SAVVIDES,

*Appellant,*

v.

THE REPUBLIC,

*Respondent.*

*(Criminal Appeal No. 4947).*

---

5 *Sentence — Housebreaking and theft of £600.- contrary to sections 292(a) and 255 of the Criminal Code — 13 similar offences involving theft of £1,000.- taken into consideration — Appellant, aged 17 1/2 at the time of the commission of offences, co-operated with the Police, showed sincere repentance, compensated his victims — Social report showed that the offences were out of appellant's character, having been committed at a time the appellant was suffering from emotional stress — Two years' imprisonment — Reduced to one year's imprisonment.*

10 *Sentence — Young offenders — Deterrence must be balanced by interest of society in their reform — They should not leave the Court with the impression that society has written them off.*

The facts of this case appear sufficiently in the headnote

15 *Appeal allowed. Sentences reduced to one year's imprisonment.*

*Cases referred to:*

*Philippou v. The Republic* (1983) 2 C.L.R. 245;

*Psylla v. The Republic* (1984) 2 C.L.R. 420;

*Nicolaou v. The Republic* (1985) 2 C.L.R. 52;

20 *Ioannou and Another v. The Police* (1986) 2 C.L.R. 149.

**Appeal against sentence.**

Appeal against sentence by Chrstos Charalambous Savvides who was convicted on the 6th November, 1987 by the Military Court sitting at Nicosia (Cases Nos 522/87 and 535/87) on one count of the offence of house breaking and stealing contrary to sections 292(a) and 255 of the Criminal Code Cap 154 and was sentenced to two years' imprisonment

*M Iacovou*, for the appellant

*P Ioulianos*, for the respondent

MALACHTOS J The judgment of the Court will be delivered by PİKIS J

PIKIS J The appellant was convicted on his own plea on a charge of house breaking and theft of £600 - (contrary to s 292(a) and s 255 - Cap 154), and was sentenced by the military court to two years' imprisonment. In passing sentence the Court took into consideration, at the request of the appellant, 13 similar offences involving the theft of a total amount of £1,000. After arrest the appellant readily admitted the commission of the offence and volunteered information leading the police to uncover and detect the remaining offences

Evidently the appellant was overwhelmed by feelings of remorse and a desire to make a clean breast with his criminal escapades that brought him for the first time before justice. At the time of the commission of the offences the appellant was aged 17 1/2. He was a conscript of the National Guard, temporarily released because of stress. As a matter of fact he was given leave of absence for one year to enable him to cope with psychological problems that troubled him after the break up of a love affair. The reports produced before the Court indicated that the commission of the offences was out of the character of the appellant and that they had been committed at a time when appellant laboured under emotional stress

Not only the appellant gave token of his repentance by the admission of the offence and disclosure of details of other crimes committed by himself, but also made amends to the victims of his crimes by returning £1,400 - of the stolen money. Furthermore, his family and himself intend to compensate the remaining victims by the repayment of an amount of £200 - Although the trial Court did

direct itself correctly respecting the gravity of offences of house -  
 breaking that recently assumed, because of their frequency,  
 dimensions of a social evil and to the extenuating circumstances  
 that justified leniency, nonetheless, the Court felt constrained to  
 5 impose the fairly long sentence of two years' imprisonment

The sentence is challenged only on one ground as manifestly  
 excessive. For the appellant to succeed it must be demonstrated  
 that the element of excess is glaring and as such objectively  
 noticeable\*

10 Counsel for the Republic argued that the sentence of two years'  
 imprisonment is in line with the sentencing policy adopted by the  
 Supreme Court for the punishment of housebreaking offenders,  
 evidenced by the decisions in *Psylla v Republic*\*\* and *Nicolaou v*  
*Republic*\*\*\*. In neither of the above cases did the Supreme Court  
 15 aim to establish an inflexible norm for the punishment of house-  
 breaking, whereas the facts of each of the above cases and  
 circumstances of the offenders are perfectly distinguishable from  
 the corresponding facts of this case

A more pertinent decision and one apt to illuminate the  
 20 sentencing framework for the punishment of young offenders  
 convicted of house-breaking and theft is that of *Ioannou and*  
*Another v Police*\*\*\*\*. In that case too the Supreme Court was  
 concerned with the punishment of a youth of 17 convicted of  
 shop-breaking and theft. The fact that crimes of this nature  
 25 assumed proportions of a social evil\*\*\*\*\*. « could not obliterate  
 the need to individualize the sentence in light of the youth of the  
 appellant and absence of previous convictions» Significantly, the  
 Court added the following «The emphasis laid on deterrence by the  
 learned trial Judge was misplaced for in the case of young  
 30 offenders it must be balanced by the strong interest of society in  
 the reform of the accused»

The Military Court failed or omitted to attach the weight due to  
 the extenuating circumstances stemming from the youth of the  
 appellant, his clean record, his repentance and the amends to the  
 35 victims of his crime. The failure of the trial Court to individualize

\* *Philippou v The Republic* (1983) 2 C.L.R. 245 250

\*\* (1984) 2 C.L.R. 420

\*\*\* (1985) 2 C.L.R. 52

\*\*\*\* (1986) 2 C.L.R. 149

\*\*\*\*\* (1986) 2 C.L.R. at p. 152

**Pikis J.**

**Savides v. Republic**

**(1988)**

the sentence to the extent necessary to reflect the personal  
circumstances of the appellant, rendered the sentence manifestly  
excessive entitling this Court to interfere and set it aside and we so  
direct. The sentence of one year's imprisonment is, in our  
judgment, an appropriate punishment for the appellant. It reflects  
the gravity of the offence and the duty owed to society to observe  
the law on the one hand and the interest of the appellant and  
society in this reform on the other. Young offenders should never  
leave the Court with the impression that society has written them  
off.

5

10

In the result the appeal is allowed. The judgment of the Military  
Court is set aside. A sentence of one year's imprisonment is  
substituted.

*Appeal allowed.*