

GEORGHIOS YIAKOUMI ACHILLEOS,

Appellant,

v.

THE REPUBLIC.

Respondent.

GEORGHIOS
YIAKOUMI
ACHILLEOS
v.
THE REPUBLIC

(Criminal Appeal No. 2847)

Sentence—Appeal—Appeal against sentence dismissed—Sentence neither excessive nor wrong in principle.

Military Service—National Guard—Military Court—Sentence—Offences of deserting position as a soldier on duty and divulging military secret information, contrary to sections 56 (b) and 70 (1), respectively, of the Military Criminal Code and Procedure Law, 1964 (Law No. 40 of 1964, as amended by Law No. 77 of 1965)—Appellant's mental condition—Was not such as to prevent him from realising the seriousness of the crime he was committing—In the circumstances sentence imposed was neither excessive nor wrong in principle.

Criminal Law—Sentence—See above.

Criminal Procedure—Appeal—Sentence—Appeal against sentence—Sentence imposed will not be disturbed by the Supreme Court—Because it was neither excessive or wrong in principle.

This is an appeal against a sentence of ten years' imprisonment imposed on the appellant by the Military Court of Nicosia for divulging secret information contrary to section 70 (1) of the Military Criminal Code and Procedure Law, 1964 (Law No. 40 of 1964, as amended by Law No. 77 of 1965), the Military Court having also imposed on him a sentence of six months' imprisonment for deserting his position as soldier on duty contrary to section 56 (b) of the aforesaid Law. Learned counsel for the appellant has strenuously submitted that the mental condition of the appellant was such as to render the sentence imposed manifestly excessive.

The Supreme Court in dismissing the appeal :—

Held, (1) it is clear from the facts on record as well as from the medical evidence, that the appellant, notwithstanding his mental condition, was perfectly aware of the seriousness

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of the crime he was committing ; and of the consequences which it might produce both for him and for the country as a whole.

(2) The sentence imposed was neither excessive nor wrong in principle.

Appeal dismissed ; sentence to run from conviction.

Appeal against sentence.

Appeal against the sentence imposed on the appellant who was convicted on the 4th October, 1966, at the Military Court, sitting at Nicosia, (Case No. 328/66) on two counts of the offences of deserting his position as a soldier on duty and of divulging military secret information contrary to sections 56 (b) and 70 (1), respectively, of the Military Criminal Code and Procedure Law, 1964 (Law 40 of 1964) (as amended by Law 77 of 1965) and was sentenced to six months' imprisonment on the first count and ten years' imprisonment on the second, the sentences to run concurrently.

N. Pelides, for the appellant.

S. Georghiades, Counsel of the Republic, for the respondent.

The judgment of the Court was delivered by :

VASSILIADES, AG. P.: 'This is an appeal against a sentence of ten years' imprisonment imposed on the appellant by the Military Court of Nicosia on the 4th October, 1966, for deserting his position as a soldier on duty on the 4th June, 1966, contrary to section 56 (b) of the Military Criminal Code and Procedure Law of 1964 (Law 40/1964) as amended by Law 77/1965 ; and for divulging military secret information, contrary to section 70 (1) of the Military Criminal Code.

After a plea of guilty to both these charges and after hearing the prosecution on the facts and counsel for the accused in mitigation, the Military Court imposed a sentence of six months imprisonment on the first count and ten years' imprisonment on the count for divulging military secrets ; both terms to run concurrently. The latter offence is punishable with imprisonment for 14 years or death in certain aggravated circumstances.

Learned counsel for the appellant has strenuously submitted that the mental condition of the appellant is such as to render the sentence imposed by the Military Court manifestly excessive, in the circumstances. This point was also taken before the Military Court which heard evidence regarding appellant's mental condition from a mental specialist.

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It is obvious from the record that the Military Court went into this matter with the utmost care ; and it is equally clear that the mental condition of the appellant is such as to afford him no defence for the serious crime which he has admittedly committed. It is also obvious from the facts on record, as well as from the medical evidence, that that the appellant was perfectly aware of the seriousness of the crime he was committing ; and of the consequences which it might have produced both for him and for the country as a whole.

At the end of counsel's submission to this Court today, we found it unnecessary to call upon counsel for the respondent in support of the sentence. In our unanimous opinion the sentence imposed by the Military Court, is neither manifestly excessive nor wrong in principle ; and this appeal must fail. We are clearly of the view that there is no merit whatever in the appeal before us.

Appeal dismissed ; sentence to run from the date of conviction.

Appeal dismissed.