

1968  
Sept. 27

[VASSILIADES, P., JOSEPHIDES AND HADJIANASTASSIOU, JJ.]

ANASTASSIS  
PANAYI  
v.  
THE POLICE

ANASTASSIS PANAYI,

*Appellant,*

v.

THE POLICE,

*Respondents.*

(Criminal Appeal No. 3014)

*Criminal Procedure—Conviction—Proper record in a judicial proceeding should be kept—Giving reasons for judgment—Failure to give reasons constitutes an irregularity which in the present case vitiates the trial—A conviction based on a non-reasoned judgment should not be sustained—Such failure to give reasons is contrary to the Criminal Procedure Law, Cap. 155, section 113 (1), Article 30.2 of the Constitution and, also, contrary to one of the international proclaimed human rights.*

*Criminal Procedure—Sentence—Previous convictions—If previous convictions are to be placed before the Court for the purposes of sentence, a list of the convictions so presented must be made part of the record.*

*Constitutional Law—Article 30.2 of the Constitution—Duty of the Courts to give reasons for their judgments.*

*Human Rights—Constitutional rights—In Cyprus, it is every person's right to be informed of the reasons for which he is deprived of his liberty—Such right is one of his internationally proclaimed fundamental human rights—As well as one of his constitutional rights under Article 30.2 of the Constitution.*

*Reasoned judgment—See above.*

The facts sufficiently appear in the judgment of the Court. The appellant pleaded not guilty on a charge of larceny contrary to section 262 of the Criminal Code, Cap. 154. Evidence was heard and eventually he was found guilty and sentenced to 18 months' imprisonment. The trial Judge's notes in this connection consist in three sentences :

“ I find the accused guilty as charged ”.

“ Accused has 81 previous convictions (read out in Court) ”.

“ 18 months imprisonment, 10/- costs to be paid by the Republic.”

Allowing the appeal the Supreme Court quashed the conviction and ordered a new trial before another Judge, holding that a conviction based on a non-reasoned judgment should not be sustained.

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*Appeal allowed.*

Cases referred to :

*Mikis Frixou alias Paraschos v. The Police* (1963) 1 C.L.R. 83.

### **Appeal against conviction.**

Appeal against conviction by Anastassis Panayi who was convicted on the 1st day of August, 1968, at the District Court of Nicosia (Criminal Case No. 13914/68) on one count of the offence of stealing contrary to section 262 of the Criminal Code Cap. 154 and was sentenced by Ioannides, Ag. P.D.C., to 18 months' imprisonment.

*Appellant*, appearing in person.

*M. Kyprianou*, Counsel of the Republic, for the respondents.

The judgment of the Court was delivered by :

VASSILIADES, P. : This is an appeal against conviction, taken by a notice on the form usually supplied to prisoners on admission to the Central Prison after their conviction. The notice was apparently prepared without legal assistance ; it is signed by the appellant with his finger mark which indicates that he cannot even write his name ; and gives as grounds of appeal the assertion that the appellant is innocent.

The appellant, aged 34, was charged under section 262 of the Criminal Code (Cap. 154) with larceny ; he pleaded not guilty to the charge and was tried in the District Court of Nicosia early in August last.

The learned trial Judge heard three witnesses called for the prosecution ; and the appellant who elected to give evidence on oath. He then proceeded to give his judgment which, according to the record, consists of one single short sentence : " I find the accused guilty as charged." The Judge then proceeded to deal with the previous convictions of the appellant ; and the notes in this connection read :

" Accused has 81 previous convictions (read out in Court)."

The sentence imposed after this is equally laconical :

" 18 months imprisonment, 10/- costs to be paid by the Republic."

Brevity and precision are valuable qualities in judicial notes. We also appreciate the need of saving time in the

trial courts. On the other hand, these matters cannot be carried to excess at the expense of a proper record in a judicial proceeding.

This matter arises every now and again at the hearing of appeals. And this Court has had occasion to state its views thereon. One case to which we may refer by way of illustration is *Mikis Frixou* alias *Paraschos* v. *The Police* (1963) C.L.R. Part I, p. 83.

That was an appeal against sentence only. The case before us is an appeal against conviction, where the verdict of the Court results from the assessment of the evidence. It is, we think, a glaring example of a judgment which does not state the reasons for the Court's decision, as required by section 113 (1) of the Criminal Procedure Law (Cap. 155) ; and constitutes an irregularity which vitiates the trial. We find it unnecessary to say anything more about it. We are unanimously of opinion that a conviction based on a non-reasoned judgment should not be sustained.

The right of every person to be informed of the reasons for which he is deprived of his liberty is one of his internationally proclaimed fundamental human rights. Moreover, in Cyprus it is the appellant's Constitutional right under Article 30, para. 2 of the Constitution, that any judgment affecting his rights "shall be reasoned."

We cannot give substance to the legal provisions governing the matter before us, by merely stating our views thereon. We must give effect to such provisions. We feel constrained to set aside the conviction based on the judgment before us ; and in the interests of justice order a new trial.

The appellant in this case is an individual who is stated to have no less than 81 previous convictions. In this connection, we wish to repeat what has already been stated time and again that if the previous convictions are to be placed before the Court for the purposes of sentence, a list of the convictions so presented must be made part of the record, so as to become available for subsequent proceedings in the case. Obviously the Court of Appeal cannot assess the effect of the previous convictions on the Judge's mind when he was measuring his sentence, unless this Court knows the nature, time and other necessary details of such convictions.

In the result this appeal is allowed, the conviction is set aside and a new trial is ordered before another Judge.

*Appeal allowed. Conviction set aside. New trial to take place before another Judge.*