

1981 April 17

[TRIANTAFYLIDES, P., HADJIANASTASSIOU, A. LOIZOU, JJ.]

STAVROS DEMETRIOU TSIOLIS,

*Appellant,*

v.

THE POLICE,

*Respondents.*

(*Criminal Appeal No. 4205*).

*Criminal Law—Sentence—Six months’ imprisonment for assault causing actual bodily harm—Appellant’s bad criminal record with nine similar previous convictions—Fact that appellant an epileptic not a ground for reducing sentence, in the circumstances of this case, because he may receive medical treatment whilst in prison.*

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The appellant pleaded guilty to the offence of assault causing actual bodily harm and was sentenced to six months’ imprisonment. The victim of the assault was a police constable and the appellant hit him on the right thumb and the right thigh, causing him wounds for which he had to be taken to a hospital for treatment. The appellant was twenty-eight years’ old and had nine previous convictions for assault; seven of them were in respect of assaults causing actual bodily harm, and on two occasions the victims were policemen.

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Upon appeal against sentence it was argued in support of the submission for the reduction of the sentence that the appellant was an epileptic who has been receiving treatment for his affliction for a long time.

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*Held*, that the aforesaid illness of the appellant is not, in the circumstances of the present case, a reason for interfering with the lenient sentence which was passed upon him by the trial Court because the appellant while in prison will, surely, have the opportunity of receiving all medical treatment that he may be found to need; accordingly the appeal must be dismissed.

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*Appeal dismissed.*

Cases referred to:

*Alexandrou v. Police* (1969) 2 C.L.R. 165;

*Voudaskas v. Republic* (1967) 2 C.L.R. 109.

**Appeal against sentence.**

Appeal against sentence by Stavros Demetriou Tsiolis who was convicted on the 24th February, 1981 at the District Court of Nicosia (Criminal Case No. 18143/80) on one count of the offence of assault causing actual bodily harm, contrary to section 243 of the Criminal Code Cap. 154 and was sentenced by Nicolaou, D.J. to six months' imprisonment. 5

Appellant appeared in person.

*A. M. Angelides*, Senior Counsel of the Republic, for the respondents. 10

TRIANTAFYLLIDES P. gave the following judgment of the Court. The appellant has appealed against the sentence of six months' imprisonment which was passed upon him by the District Court of Nicosia when he was found guilty of the offence of assault causing actual bodily harm, contrary to section 243 of the Criminal Code, Cap. 154. 15

The victim of the assault was a police constable and it occurred on July 17, 1980, while the appellant was at Strovolos Police Station. He rushed at the said constable, against whom he had apparently a grudge, and bit him on the right thumb and the right thigh, causing him wounds for which the constable had to be taken to a hospital for treatment. 20

The appellant has nine previous convictions for assault; seven of them are in respect of assaults causing actual bodily harm and on two occasions the victims were, again, policemen. 25

The trial Court in passing sentence on the appellant took into account, at the request of the appellant, two other outstanding against him cases.

The trial Court had, also, before it a social investigation report about the appellant. On the basis of its contents and in the light of the bad criminal record of the appellant the trial Court has found, rightly in our opinion, that the appellant is a persistent offender. 30

The trial Court having taken duly into account all the personal and family circumstances of the appellant decided to show leniency to him and not to impose as long a sentence of imprisonment as was warranted in the light of all relevant considerations. 35

A factor which was relied on before us by the appellant in an effort to secure a reduction of sentence on appeal is the fact that the appellant, who is twenty-eight years old, is an epileptic and has been receiving treatment for this affliction for a long  
5 time both at the psychiatric wing of the Nicosia Hospital and at the Psychiatric Institutions at Athalassa.

In our opinion the aforesaid illness of the appellant is not, in the circumstances of the present case, a reason for interfering with the lenient sentence which was passed upon him by the  
10 trial Court. The appellant while in prison will, surely, have the opportunity of receiving all medical treatment that he may be found to need (see, in this respect, *inter alia*, *Alexandrou v. The Police*, (1969) 2 C.L.R. 165, and *Voudaskas v. The Republic*, (1967) 2 C.L.R. 109).

15 In the light of all the foregoing we find no merit in this appeal and it is dismissed accordingly.

*Appeal dismissed.*