

1982 April 13

[A. LOIZOU, SAVVIDES, STYLIANIDES, JJ.]

THEODOROS ANTONIOU PANTELI,

Appellant,

v.

THE POLICE,

Respondents.

(Criminal Appeal No. 4269).

*Road Traffic—Careless driving—Running down case—Girl of five
knocked down by motor car whilst running to cross the road
in front of a stationary bus—Existence of traffic sign warning
drivers that they are approaching a school—Appellant knew
5 the road—Time of the accident which was the time that children
go to school—Presence of bus opposite entrance of school should
have placed appellant on his guard that children might alight
from the bus and attempt to cross the road—Appellant should
have reasonably apprehended the emerging danger and reduce
10 speed—Conviction for careless driving sustained.*

Road traffic—Traffic warning signs—Object of.

Whilst the appellant was proceeding in front of the Elementary
School of Latsia village, which was on his right hand side,
and he was in the process of overtaking a stationary bus, which
15 was on the left hand side of the road, he knocked down and
injured a five-year old girl whilst she was running to cross
the road in front of the stationary bus from left to right. There
were 18 passengers in the bus, some of whom were school children
and the bus stopped opposite the entrance of the school in order
20 that the children may alight from the bus. The road was a
straight one, 25 ft. wide with 5 ft. usable berms on each side
and with very good visibility; and at a reasonable distance
from the entrance of the school, in the direction from which
the appellant was coming, there was a traffic sign visible to
25 drivers approaching the school, warning them of the existence

of the school. The appellant was driving at a speed of 30 m.p.h. and when confronted with the girl he made no effort to stop because, as he said, the distance between his car and the girl at the time when the girl emerged in front of him, was very short. Such distance was given by the police officer who investigated the case as being 36 feet. 5

The trial Judge found the appellant guilty of the offence of driving without due care and attention having held, inter alia, that in view of the presence of the bus outside the school it was reasonable for the appellant to anticipate that children may alight from the bus to go to school and dash across the road or emerge in front of the bus. 10

Upon appeal against conviction:

Held, that the existence of the traffic sign warning drivers that they were approaching a school, the fact that the appellant knew the road, the time at which the accident occurred which was the time when school children go to school, and the presence of the bus opposite the entrance of the school, should have placed the appellant on his guard that children might alight from the bus and attempt to cross the road and appellant should have reasonably apprehended the emerging danger and reduce the speed of his car in anticipation of such danger; that, therefore, the appellant was rightly found guilty of the offence of driving without due care and attention; accordingly the appeal must fail (*Triftarides v. Police* (1968) 2 C.L.R. 140 and *Chrysostomou v. Police* (1971) 2 C.L.R. 176 distinguished). 15 20 25

Held, further, that the object of traffic warning signs placed at visible places drawing the attention of drivers to the fact that they are approaching a school, is to put them alert and make them reduce their speed to such limits as to be in a position to avoid a sudden danger which may emerge due to the presence of school children, especially when they drive at such place during school hours; and that if this was not the object, then the existence of such signs would have been meaningless. 30 35

Appeal dismissed.

Cases referred to:

Triftarides v. Police (1968) 2 C.L.R. 140;
Chrysostomou v. Police (1971) 2 C.L.R. 176.

Appeal against conviction.

Appeal against conviction by Theodoros Antoniou Panteli who was convicted on the 16th October, 1981 at the District Court of Nicosia (Criminal Case No. 21400/80) on one count
 5 of the offence of driving without due care and attention, contrary to sections 8 and 19 of the Motor Vehicles and Road Traffic Law, 1972 (Law No. 86 of 1972) and was sentenced by S. Nico-
 jaides, D.J. to pay £15.— fine and was further bound over
 in the sum of £50.— for one year to keep the traffic Laws.

10 *St. Erotokritou (Mrs.)*, for the appellant.

D. Papadopoulou (Mrs.), for the respondents.

A. LOIZOU J.: The judgment of the Court will be delivered by Mr. Justice Savvides.

15 SAVVIDES J.: This is an appeal against conviction under ss. 8 and 19 of the Motor Vehicles and Road Traffic Law, No. 86/72 for driving a motor vehicle on a public road without due care and attention.

The facts of the case are summarized in the judgment of the trial Judge and they are briefly as follows:—

20 The accused on the 30th October, 1980 at 7.20 a.m. was driving his car along Makarios III Avenue in Latsia village at a speed of 30 m.p.h. As he was proceeding in front of the Elementary School of the village, which was on his right hand side, and he was in the process of overtaking a stationary bus which was
 25 on the left hand side of the road, he knocked down and injured a five-year old girl whilst she was running to cross the road in front of the stationary bus from left to right. There were about 18 passengers in the bus, some of whom were school children going to their school, and it is for this reason that the bus
 30 stopped on the left hand side, opposite the entrance of the school. The road was a straight one, 25 ft. wide with 5 ft. usable berms on each side and with very good visibility. At a reasonable distance from the entrance of the school, in the direction from which the accused was coming, there was a traffic sign visible
 35 to drivers approaching the school, warning them of the existence of the school. The accused when confronted with the girl made no effort to stop as, according to his evidence before the trial Court, the distance between his car and the girl at

the time when the girl emerged in front of him, was very short. Such distance was given by the police officer who investigated the case as being 36 feet.

The learned trial Judge reached the conclusion that the accused, in the circumstances of the case, was driving without due care and attention and found him guilty of the charge. In so doing, he had this to say: 5

“The question of negligence is always a factual one depending on the circumstances of each particular case and in the present case the fact that the accused knew the road, the time being 7.20 a.m. when aschool children are going to school, schools were open, the existence of the warning sign at the side of the road that he (the accused) was approaching a school where young children might emerge on the road. The presence of the bus outside the school it was reasonable for accused to anticipate that children may alight from the bus to go to school and dash across the road or emerge in front of the bus. 10 15

Accused’s speed at about 30 miles per hour, even though within the permissible limits, in these circumstances should have been reduced to a more reasonable speed in order to give him better manoeuvrability and ability to stop at shorter distance in case of any eventuality”. 20

Learned counsel for the appellatant in her argument in support of the grounds of appeal, made reference to the cases of *Triftarides v. The Police* (1968) 2 C.L.R. 140 and *Chrysostomou v. The Police* (1971) 2 C.L.R. 176 and submitted that in the light of the judgments in the said cases, the appeal of the accused in the present case should be allowed and his conviction quashed. In *Triftarides* case, the accident occurred whilst the appellatant was overtaking a stationary car in the outskirts of a village and a girl suddenly emerged in front of his taxi, coming from behind the stationary car. In the circumstances of the case his conviction for driving without due care and attention was quashed on appeal. The Court of Appeal found that the case was a borderline case and in acquitting the accused, had this to say at page 145 (per Vassiliades, P.):– 25 30 35

“The conviction was rested on the fact that, in the circumstances, the driver did not reduce his speed at 30 miles

an hour, apprehending that a child might come suddenly across the road, from behind the stationary car. In my opinion there was nothing which should reasonably cause such apprehension in the circumstances”.

5 In *Chrysostomou* case the appellant whilst driving his car within a village at a speed of 15 miles per hour and was in the process of overtaking a stationary bus from which passengers were alighting, hit a girl who emerged from behind the front of the bus and attempted to cross the road in front of the car
10 driven by the appellant. The conviction of the appellant for driving without due care and attention was quashed on appeal because, as stated by the Court at page 178 (per Triantafyllides, P.):—

15 “Bearing in mind all relevant circumstances, including the slow speed at which the Appellant was driving and that he immediately tried to stop when he saw the girl emerging suddenly in front of him, we find that it was not warranted to find the Appellant guilty of driving without due care and attention and, therefore, the conviction has to be
20 quashed and the sentence imposed on the Appellant is set aside”.

Both the above cases are distinguishable from the present case. In the present case, as very rightly observed by the learned trial Judge, the existence of the traffic sign warning drivers that
25 they were approaching a school, the fact that the appellant knew the road, the time at which the accident occurred which was the time when school children go to school, the presence of the bus opposite the entrance of the school, should have placed the appellant on his guard that children might alight from the
30 bus and attempt to cross the road and appellant should have reasonably apprehended the emerging danger and reduce the speed of his car in anticipation of such danger. The object of traffic warning signs placed at visible places drawing the attention of drivers to the fact that they are approaching a
35 school, is to put them alert and make them reduce their speed to such limits as to be in a position to avoid a sudden danger which may emerge due to the presence of school children, especially when they drive at such place during school hours.

If this was not the object, then the existence of such signs would have been meaningless.

In the result, the appeal is dismissed.

Appeal dismissed.