

1986 December 18

[A. LOIZOU, DEMETRIADES, KOURRIS, JJ.]

ANDREAS GEORGHIOU CHARALAMBOUS,

Appellant,

v.

THE POLICE,

Respondents.

(Criminal Appeal No. 4794).

5 *Sentence—Driving by learner driver without being accompanied by a licensed driver, failing to stop when given a signal by a policeman and driving without being covered by an insurance policy—First offender aged 20—Fines in respect of the first two counts and disqualification from holding or obtaining a driver's licence for a period of 12 months on count 3—Disqualification upheld—Observations re-*
garding Dracos v. The Police (1969) 2 C.L.R. 16.

10 Counsel for the appellant argued that the aforesaid sen-
tence is manifestly excessive in that the appellant is a
first offender and has to drive every day to his work,
which he does accompanied by a licensed driver and drew
the attention of the Court to the case of *Dracos v. The*
15 *Police (1969) 2 C.L.R. 16*, where the appellant, a first
offender, was disqualified for a similar offence for a
period of six months only.

20 *Held, dismissing the appeal:* (1) Considering that the
offence was committed on a major road, that the ap-
pellant failed to stop, when he was given a signal by a
policeman, and that offences of this nature are pre-
valent these days and are mostly committed by young
persons, this Court is not prepared to interfere with the
sentence of disqualification.

(2) Reference to *Dracos*, supra, as regards the period of disqualification, is not useful in these days, as conditions have changed.

Appeal dismissed.

Cases referred to:

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Dracos v. The Police (1969) 2 C.L.R. 16:

Terezides v. The Republic (1982) 2 C.L.R. 193.

Appeal against sentence.

Appeal against sentence by Andreas Georghiou Charalambous who was convicted on the 7th October, 1986 at the District Court of Famagusta (Criminal Case No. 1594/86) on one count of the offence of driving with a learner's driving licence without being accompanied by a licensed driver contrary to section 19 of the Motor Vehicles and Road Traffic Law, 1972 (Law No. 86/72) and reg. 30(4) (a) and 72 of the Motor Vehicles and Road Traffic Regulations, 1984, on one count for failing to stop when given signal by a policeman in uniform contrary to reg. 58(1) (k) and 72 of the above regulations and Section 19 of the Motor Vehicles and Road Traffic Law and on one count of the offence of driving without being covered by an insurance policy contrary to section 3 of the Motor Vehicles (Third Party Insurance) Law, Cap. 333 (as amended by Law 7/60) and was sentenced by Eliades, D. J. to pay £10.- fine on count 1, £25.- fine on count 2, and to a disqualification from holding or obtaining a driving licence for a period of 12 months on count 3 and was further bound over in the sum of £100.- for two years to keep the laws and rules on count 2.

E. Vrahimi (Mrs), for the appellant.

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

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

DEMETRIADES J.: The appellant, a young man 20 years

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old, was found guilty by the District Court of Larnaca on his own plea on three counts, that is (1) whilst being a learner driver he was driving without being accompanied by a licensed driver, (2) he failed to stop when he was given
5 signal by a policeman in uniform and (3) he was driving without being covered by an insurance policy. He was sentenced to pay a fine on counts 1 and 2 and was disqualified from holding or obtaining a driver's licence for twelve months on count 3.

10 In arguing the case for her client counsel for the appellant submitted that the sentence imposed on him is manifestly excessive in that the trial Court failed, in passing sentence, to take into account the fact that the appellant is a first offender and that he has to drive every day to his
15 work which he does accompanied by a licensed driver. She further submitted that as subsection 3 of section 3 of the Motor Vehicles (Third Party Insurance) Law, Cap. 333, as amended by section 2 of the Motor Vehicles (Third Party Insurance) (Amendment) Law, 1960 (Law 7/60),
20 provides a minimum disqualification of six months, the trial Judge ought not to sentence her client to disqualification of twelve months, as he is a first offender.

In support of her argument on the last point, counsel for the appellant drew our attention to the case of *Dracos*
25 v. *The Police*, (1969) 2 C.L.R. 16, in which the appellant, a first offender, was sentenced for a similar offence to disqualification of six months only.

The *Dracos* case (supra) was, however, fought on issues different than those raised in this appeal and we find that
30 it is neither a guidance to us nor are we bound by it. It has been repeatedly said (see *Terezides v. The Republic*, (1982) 2 C.L.R. 193, 196):

35 "... that the Court of Appeal will only interfere with a sentence so imposed by the trial Court if it is made to appear from the record that the trial Court mis-directed itself either on the facts or the law, or that the Court, in considering sentence allowed itself to be influenced by matter which should not affect the sentence; or if it is made to appear that the sentence

imposed is manifestly excessive in the circumstances of the particular case.”

Considering now that the offence was committed along a major road, that the appellant failed to stop when he was given a signal to do so by a policeman in uniform, that he is a young man and that offences of the nature committed by the appellant are prevalent these days and they are mostly committed by young men, we are not prepared to interfere with the sentence of disqualification.

Concluding, we would like to point out that reference to the case of *Dracos*, supra, as regards the period of disqualification, is not useful in these days, as conditions have changed and the rate of accidents these days has considerably increased since then.

The appeal is, therefore, dismissed.

Appeal dismissed.