

1986 November 17

[TRIANAFYLIDIS P DEMETRIADES SAVVIDES JJ]

ANDREAS NICOLAOU,

Appellant,

v

THE REPUBLIC,

Respondent

(Criminal Application No 1/86)

Appeal — Criminal appeal — Time within which to file notice of appeal — Extension of — Failure of prison authorities to transmit to Supreme Court a notice of appeal signed within time — Extension of time justified

The applicant signed within time a notice of appeal against his conviction, but by inadvertence, the prison authorities did not transmit it to the Supreme Court

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Hence this application for an extension of time within which to file the notice of appeal

Held, granting the application, that in this case a good cause has been shown in favour of extending the time within which the appellant is to file his appeal

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Order extending the time within which to file an appeal for a period of 7 days as from to-day

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Cases referred to

Michaelidou v Distict Officer Lamaca, (1984) 2 C L R 1

Application.

Application for the extension of the time within which to file an appeal against conviction.

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E Liatsou (Mrs.), for the applicant.

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

Cur. adv. vult.

5 TRIANTAFYLLIDES P.: read the following judgment of the Court. The appellant was convicted on 17 June 1986 of the offence of incest with his daughter and was sentenced to seven years' imprisonment.

10 After he was taken to the Central Prisons he signed a notice of appeal against his conviction within the ten days' period envisaged by section 132 of the Criminal Procedure Law, Cap. 155, and handed it to an officer having charge of him at the Central Prisons for transmission to the Supreme Court.

15 As the appellant thought that there was delay in fixing his appeal for hearing he communicated with his lawyer, Mr. A. Andreou, who eventually discovered that the notice of appeal which was signed by the appellant never reached the Supreme Court, but it was inadvertently placed by the prison authorities in the personal file of the appellant at the Central Prisons and was left there.

20 As a result there was filed on 21 October 1986 the present application seeking an extension of the time within which the appellant will file his appeal against conviction.

25 Counsel appearing today for the respondent has informed the Court that the version of the appellant as to how it came about that his appeal was not transmitted to the Supreme Court is correct and that he does not object to an extension of the time within which the appellant will appeal.

30 As has been correctly pointed out in *Michaelidou v. The District Officer, Lamaca*, (1984) 2 C.L.R. 1, the extension of the time for appeal is a matter of discretion and the relevant powers, which are granted to the Supreme Court by virtue of section 134 of the Criminal Procedure Law, Cap. 155, have to be exercised in the interests of justice.

35 In the present instance we are satisfied that good cause has been shown in favour of extending the time within which the appellant is to appeal against his conviction and we, hereby, extend the time within which he may appeal for seven days as from today.

Application granted