

IN THE PRIVY COUNCIL

16,1956

ON APPEAL

FROM THE SUPREME COURT OF CYPRUS

UNIVERSITY OF LONDON  
W.C.1  
19 FEB 1957  
INSTITUTE OF ADVANCED  
LEGAL STUDIES

B E T W E E N :-

MICHALAKIS SAVVA KARAOLIDES ... Appellant

45888

-and-

THE QUEEN ... Respondent

CASE FOR THE RESPONDENT

RECORD

- 10 1. This is an appeal from a judgment, dated the 12th November, 1955, of the Supreme Court of Cyprus (Zekia and Zannetides, JJ.), dismissing an appeal from a judgment and sentence, dated the 28th October, 1955, of the Assize Court of Nicosia (Hallinan, C.J., Pierides, P.D.C. and Ekrem, D.J.), whereby the Appellant was convicted of the murder of a policeman named Poullis and was sentenced to death. pp.174-184
- 2. The evidence for the Crown included the following:- pp.159-169
- 20 (a) In the morning of Sunday, 28th August, 1955, a meeting of the Old Trade Unions was held in the Alambra Hall in Nicosia. Poullis was on duty in Ledra Street, outside the Hall. When the meeting finished, shortly before noon, the audience came out into Ledra Street. Three men surrounded Poullis, and one of them shot him in the back. Poullis collapsed and died at once, and the three men made off. The third of them, who had actually fired the shot, was chased for a considerable distance through the streets but succeeded in making his escape.
- 30 (b) The Crown called three witnesses to identify the Appellant. The evidence of the first, a man named Djenkiz, was rejected by the Assize Court on considerations of demeanour. Secondly, a man named Derekoglou, a clerk in a Government office, said he had been walking up Ledra Street at about pp.4-21,162, 11.34-42
- pp.22-32

RECORD

p.22.L.14  
p.22.L.29  
p.22.L.45  
p.23 L.8  
  
p.24.11.8-20

12.20 on the 28th August and had heard three shots from the Alambra Hall. A few seconds later he saw someone coming from the Hall on a bicycle with people chasing him. At the corner of Ledra Street and Kykko Avenue the cyclist collided with another bicycle. He then left his bicycle and fled along Kykko Avenue, and Derekoglou pursued him on his bicycle. A certain distance along Kykko Avenue the fugitive turned round and threatened Derekoglou with a pistol. Derekoglou took shelter in a doorway, and the fugitive turned into another street and escaped. On the 4th September Derekoglou identified the accused as the fugitive at an identification parade. During his examination in chief, the following occurred:-

'X'n Cont. Q. Did you know the accused? Had you seen the accused before? A. Yes. Q. Where? A. I saw him at the Secretariat where I used to work before'.

The following passage occurred during the cross-examination

p.29 L.1

'Q. There is what appears to me rather an extraordinary way in which you come to fix on the accused as the person whom you chased that day. What you said to-day in Examination in Chief is that you did not at that time recognise the person but later you recognised that the man was the accused.

PAVLIDES: I believe I am correct my Lord in saying that that is how he put it.

CHIEF JUSTICE: The only sort of delay was apparently in connecting the man he was looking at with the man he had known at the Secretariat.

PAVLIDES: What did he actually say my Lords? I think rather that he put it in this way: Then I did not connect the person I was pursuing with the accused. I do not know what he means.

WITNESS: My first impression on that day was that I had seen him somewhere, but I could not make up my mind where it was but at the identification parade I understood that I had seen him at the Secretariat.

Q. I see, so it was only at the identification parade on the 4th September for the first

time that you thought that the person whom you were chasing was the person whom you had met before at the Secretariat. Am I putting it correctly?

10 A. Not quite correct. The first thing I saw at the police station was the same person I saw on the 28th and the same person I saw at the Secretariat. Q. Yes, but for the first time you connected the person you had seen on that day?

20 CHIEF JUSTICE: It is very muddling, but what he said is that: "When I saw this man immediately after the shooting his face seemed familiar, I had seen him before". And then he said that "At the parade I realised the place I had seen him before was at the Secretariat". You must take it from me that that is his evidence. I have listened very carefully to his evidence and that is his evidence.

PAVLIDES: I am the last person who wants to waste the time of the Court. But what I am asking him is: Am I correct in assuming that the first time you connected the person you were chasing with the person you had met at the Secretariat was at the Identification Parade? I said: Am I correct? He said: Not quite correct.

30 CHIEF JUSTICE: Are we in any doubt as to what he says?

XX'n.Cont. Q. The first time you connected the man you saw at the Secretariat was at the Identification Parade? A. Yes. Q. Now, how long did you work at the Secretariat? A. For a year. Q. As what? A. Again the same appointment as I have now, clerical assistant.

Q. But in what office? A. In the Colonial Secretary's office.

40 Q. When you met the accused at the Secretariat did you know his name? A. No, I did not.

Q. How long before this occurrence? What year did you meet him? A. 1952 or 1953.

Q. You had not seen him before and you had not seen him since until the date of this occurrence? A. No, I saw him again one day at my office, he came to the window of my office and talked to one of my friends.

RECORD

Q. In 1952? A. No, that was in 1955. Q. Where?  
A. At the Commissioner's Office.

Q. So how long before the 28th August was it that you saw him at the Commissioners Office?  
A. It was about 20 days before that - about.

Q. And why then in connecting the person whom you were chasing and the accused you did not think of saying that: It occurred to me that it was the person whom I had seen not very long ago in my office. Why did you connect him back to the Secretariat, 3 years ago and not to the last time you saw him 20 days previously? 10

CHIEF JUSTICE: This is all psychology, because if it is psychology I can tell you the reason. In one place he was working in the same building as the man, the other was a fleeting visit of a person - he would not have remembered it if he had not known him already at the Secretariat - all this is inference and psychological.

PAVLIDES: I think psychologists can give different reasons for the same event, 20

CHIEF JUSTICE: The witness is called to give facts, not to be introspective and analyse the psychology of his own mind on different occasions. I think this is getting over subtle.

PAVLIDES: We are cross-examining as to credibility, that he said one thing and not the other thing, and if the Court finds a reason for everything he says it is no use cross-examining.

CHIEF JUSTICE: I am not finding reasons, I am merely occasionally trying to keep the cross-examination within bounds. I did not for example stop you this morning on many occasions, but what you were doing was nothing more than repeating word for word what he gave in examination, and I bore with you. 30

PAVLIDES: I have had long experience in Court and it is the first time I heard that my cross-examination is irrelevant. But I must learn as I grow old. 40

CHIEF JUSTICE: I did not say it was irrelevant but I said it was repetitive.

PAVLIDES: I must ask this witness - if Your Lordships rule my question out I will of course abide by it - but I do ask the witness why

instead of linking the accused with the person that had visited him 20 days before this occurrence he linked him up with the Secretariat two or three years ago. That is my question.

CHIEF JUSTICE: Well, I rule it out. I consider it an over subtle question of human psychology which the witness should not be required to answer unless he is an expert.'

10

- (c) Thirdly, P.C. Mehmet Ismail said he had been on duty with Poullis outside the Alambra Hall on the 28th August. He had been on the opposite side of the road when Poullis was shot. He saw the Appellant run off down Ledra Street, putting a revolver in his shirt. He (the Appellant) took a bicycle and rode down Ledra Street, and Ismail followed him. At the corner of Kykko Avenue someone threw a bicycle in front of the Appellant, who then fell or jumped down and ran along Kykko Avenue. Ismail followed him, at first on foot and then on a bicycle, but lost sight of him in Kykko Avenue. On the 4th September he had picked the Appellant out at the identification parade.
- (d) A mechanic named Christodoulos said he had been at the meeting at the Alambra Hall, and after it was finished had ridden off down Ledra Street on his bicycle. When he reached the corner of Kykko Avenue he heard shots, and saw someone taking a bicycle from the pavement in Ledra Street, and putting something in his shirt. This man rode the bicycle towards Christodoulos, who, realising that he must be the man who had fired the shots, placed his own bicycle in his way. The man ran off down Kykko Avenue, and Christodoulos chased him. The man turned and threatened him with a pistol, and shortly after that Christodoulos lost sight of him. He could not say whether the Appellant was the man.
- (e) It was proved that the bicycle ridden by the murderer down Ledra Street bore the same maker's number as a bicycle sold to the Appellant in November, 1953, and the Appellant admitted the bicycle was his.
- (f) The Appellant, who was a clerical assistant in the Inland Revenue Office, was on duty there on Saturday, 27th August, and never appeared there again.

pp.33-41

pp.33.LL.39-42

pp.34. L.4

p.34 LL.29-35

pp.41-46

p.42 L.11

p.42 L.28

p.42.L.1

p.43 L.10

p.43LL.37-38

p.47 LL.24-29

p.51 L.31-p.52 L.9  
p.105,LL.28-30

p.52 L.37-p.53 L.2

RECORD

- pp.55-64
- p.57 LL.21-40
- p.57 L.45
- p.67 L.25
- p.67 LL.31-42
- p.68 LL.15-26
- p.68 LL.5-14
- p.68 LL.27-30
- p.69 LL.6-14
- p.71 LL.30-35
- p.83 LL.20-27
- p.84 L. 33
- p.84 L.37 - p.  
85 L.10
- p.85 L.32 - p.  
86 L.8
- EXX.14(A) and (B)  
pp.189-190
- (g) A man named Damianos, who was an uncle of the Appellant, having given evidence on certain other points, said in cross-examination that the Appellant had been at his house on the 28th August from 10.45 until 1.30. He said the Appellant had not left until the news of the murder had been brought to the house, and had been using that morning a lady's bicycle belonging to his sister.
- (h) On Saturday, 3rd September, the Appellant was arrested walking through the fields near the village of Chatos. When arrested he gave a false name, address and occupation. In his pocket there was found a piece of paper on which the following was written: "Zodro (or "Zedro"), I am sending you the bearer of this note and take good care of him. He is a good boy and a patriot to the point of self-sacrifice, you can trust him. Nobody should know his identity. AVEROFF" The Appellant had said that a friend of his had given him a lift in his car, and as they approached Chatos he had told his friend that he wanted to get out in order to ease himself. He said that the note had been given to him by a friend for him to give to the relative whom he was going to see. There was a road block at Chatos, and the car in which the Appellant had been riding was stopped there. The driver said he had given the Appellant a lift, and as they approached the road block the Appellant had asked him to stop so that he might get out and ease himself. The driver then escaped from the police and had not been found since.
- (i) The Appellant had been brought to the police station at Famagusta on the 3rd September and had been arrested and cautioned. He had refused to give his name, and when cautioned had said: "I have nothing to say. I know nothing. You the police must find out. You arrest everybody without any reason".
- (k) On the 31st March, 1955 a certain car had been lent to a man named Afxentiou. In the early hours of the 1st April this car, then driven by another man, had been stopped, and then found to contain arms, explosives, and pamphlets, headed "EOKA", calling upon Cypriots to rebel against the British rule. Afxentiou's house had been searched on the 1st April and in his clothes had been found a piece of fuse and a detonator, and two leaflets. These leaflets were both headed "EOKA", and bore at their head the name "Zedro". They both contained orders for sabotage. A leaflet picked

RECORD

- up in the street in Nicosia on the 5th April, headed "EOKA" and addressed to the police, threatened the police and called upon them not to support the Government, and a similar leaflet, picked up outside Nicosia on 1st July, also addressed to the police, threatened anyone who resisted the Cypriot patriots with execution. Another leaflet headed "EOKA", picked up in the street in Nicosia on the 5th September, referred to a number of policemen as "traitors", some of whom (including Poullis) had been "executed".
- 10
- (1) A policeman named Zavros had been shot in Nicosia on the 10th August, and a police sergeant named Costopoulos had been shot in Famagusta on the 11th August. An attempt had been made on the life of a policeman called Aspros on the 1st July and an attempt on the life of Poullis (the victim in this case) on the 13th July. An attempt on the life of Inspector Papaconstantinou had been made on the 16th August.
- 20
- (m) The evidence set out in sub-paragraphs (k) and (l) was admitted after objection had been made by Counsel for the Appellant.
- 3.(a) The Appellant gave evidence. He said that on the 28th August he got up at about 8 o'clock, and after having his breakfast went out pushing his bicycle. He met his brother-in-law, a man named Phidias, and went with him to a coffee shop. They left this shop between 9.45 and 10 o'clock, and Phidias asked him to go to the meeting at the Alambra Hall. The Appellant refused, and said he was going to see his uncle, Damianos. Phidias then asked if he could borrow the Appellant's bicycle to go to the meeting himself. The Appellant lent him the bicycle and Phidias went off. The Appellant then went on his sister's bicycle to Damianos' house, arriving there at about 10.45. He sat in the house listening to the wireless with his uncle and aunt and their three children until about noon. They then went and sat in the yard, where they met a man named Cherkezos, and his son, with whom the Appellant played a game of draughts. About 1 o'clock a boy named Arghyros came in and said a policeman had been shot in Nicosia. About a quarter of an hour later Phidias arrived, took the Appellant aside, and told him that a policeman had been shot at the Alambra Hall and the murderer had taken the
- 30
- 40
- 50
- p.90 L.30  
EX 18.p.192
- Ex.19. p.193  
p.91 L.13
- pp.95-96  
Ex.17, p.191
- p.92 L.3  
p.92 L.7
- p.92 L.31
- pp.79-82
- pp.105-119
- p.105 L.30  
p.105 L.37
- p.106 L.21  
p.106 LL.32-36
- p.106 L.43
- p.107 L.11
- p.106 L.25  
p.106 L.40

RECORD

- p.108 LL.1-9 Appellant's bicycle and had had a collision at the end of the road, after which the police had seized the bicycle. The Appellant said he had fallen into a panic, because his bicycle was mixed up in a dangerous case, and some days previously (in fact in the middle of July) there had been a bomb explosion in his office. He had immediately left his uncle's house and had taken refuge with a friend whose name he refused to give. He had remained at the friend's house until the following Saturday, 3rd September, when the friend had told him that somebody was coming to take him somewhere. A man named Christouides had driven him off in a car, and before they started had thrown into his pocket the note which was subsequently found by the police, telling him he was to hand it over after the exchange of certain passwords. When they approached Chatos, the Appellant said, Christouides had told him to get out because of the road block. He had got out, and been arrested while walking through the fields. 10
- p.108 L.22
- p.108 L.44
- p.109 L.7
- p.109 L.30
- p.121 LL.20-30 (b) A man named Haritonides said he kept a kiosk in Ledra Street just at the spot where Poullis had been shot. He had been in his kiosk at the time of the murder, and had seen the three men who surrounded Poullis. He said the Appellant was not one of these three men. 20
- p.121 L.36
- p.122 L.39
- p.126 L.4 (c) A man named Myrianthopoulos said he had been sitting outside a confectioner's shop in Ledra Street, and had heard the shots and seen three men making off down the street. None of them, he said, was the Appellant. A man named Hallis said he had taken part in the pursuit of the murderer. He had attended the identification parade on the 4th September, and had told the police that the man he had chased was not in the parade. 30
- p.127 L.2
- p.131 L.33
- p.132 L.29
- p.136 LL.15-19 (d) A man named Costas said he kept a coffee shop, and the Appellant and Phidias had come to the shop at about 8.30 on the 28th August. About an hour later Phidias had borrowed the Appellant's bicycle and gone off. The Appellant, he said, had left about half an hour after that. 40
- p.136 L.33
- p.138 L.13 (e) Cherkezos said he had seen the Appellant come out of Damianos' house with Damianos at about noon on the 28th August. He said that Phidias, when he arrived, took the Appellant aside for a talk, and after this the Appellant left saying he had some work to do. He left on a lady's bicycle. Cherkezos' son gave similar evidence.
- p.138 L.38
- p.138 L.43
- pp.140-143
- p.149 L.12 (f) The boy, Arghyros, said he had been walking in Nicosia in the morning of the 28th August, and had 50



been told that a policeman had been shot. He then went to Damianos' house, where he saw the Appellant.

p.149 LL.26-29

(g) Phidias said that after borrowing the Appellant's bicycle on the 28th August he went to the Alambra Hall, and left the bicycle propped against the pavement while he attended the meeting. After the meeting he was one of the last to come out, and as he came out he heard three shots and saw a man lying on the pavement. He said he saw three persons running away, and one of them took his bicycle and rode it as far as the corner, where he collided with another cyclist. He then saw someone picking the bicycle up, but he went to Damianos' house and told the Appellant what had happened. The Appellant then left at once. Phidias said that when the murderer took the bicycle he was within two feet of him, but he made no attempt to stop him or to shout after him. After the collision, when the murderer left the bicycle and ran off, he had not asked for the bicycle because, he said, he was too frightened; nor had he ever told anyone except the Appellant about the incident.

pp.152-158

p.153 LL.21-33

p.153 L.39

p.153 L.40

p.154 L.4

p.154 LL.13-15

p.154 L.49

p.156 L.39

p.158,LL.20-21

4. The judgment of the Court was delivered by the learned Chief Justice. He summarised the evidence set out in paragraph 2 hereof, and said that the issues were :-

p.159-169

(i) Whether the eye witnesses produced by the Crown were to be believed,

p.162 L.27

(ii) Whether the Appellant's evidence explaining how his bicycle got out of his possession was to be believed,

(iii) Whether the Appellant's alibi could be accepted.

The learned Chief Justice considered in detail the evidence of Djenkiz, Derekoglou and Ismail, rejecting the evidence of the first named and accepting the evidence of the two latter witnesses as to the identity of the Appellant. He then considered in the same detail the evidence of the witnesses for the defence, and gave reasons why such evidence was not acceptable. He set out the evidence of the Appellant, and said that both parts of it were closely connected, because, if the Court could not accept the story of the bicycle, that would be fatal to the alibi. It was, he

pp.162-163

pp.164-165

p.165 L.40

p.167 L.1

RECORD

p.167,L.6	said, very difficult to test the truth of an alibi of this sort, but its weakness might be revealed by a small matter, and he mentioned such an inconsistency between the evidence of the young Cherkezos and that of Arghyros.	
p.167 L.41	Phidias' evidence was frankly incredible. The Court had to consider whether to accept the evidence of Derekoglou and Ismail, or the Appellant's alibi and the incredible evidence of Phidias.	
p.168 LL.22-25	The murderer had escaped on the Appellant's bicycle, the Appellant had disappeared immediately after the crime, everything pointed to the crime having been planned and ordered by EOKA, and the Appellant had gone off in a car with a note to one of the leaders of EOKA.	10
p.168 LL.27-36	Having regard to the unchallenged evidence and that of Derekoglou and Ismail, the Court rejected the Appellant's evidence and his alibi and found him guilty of murder. He was accordingly sentenced to death.	
p.169 L.11 pp.169 LL.15-20		20
pp.169-170	5. The Appellant appealed to the Supreme Court of Cyprus. His notice of appeal on grounds of law, dated the 4th November, 1955, contained two grounds; first, that the evidence set out in paragraph 2 (k) and (l) had been inadmissible, and secondly, that Counsel for the defence had wrongly been stopped from putting relevant questions to Derekoglou. The Appellant also applied for leave to appeal on a number of questions of fact, and the Supreme Court granted the leave on the 5th November.	
pp.170-173		30
pp.174-184	6. The judgment of the Supreme Court was delivered on the 12th November. Having set out the facts which were not in dispute, the learned Judges said that the prosecution, in order to establish motive, had led evidence to show that the Appellant was associated with the terrorist organization called EOKA. Although it was not essential to prove motive, evidence showing motive was always admissible. The learned Judges referred to the evidence set out in paragraph 2(k), and said this evidence was relevant as suggesting a motive or negating the absence of a motive. The evidence set out in paragraph 2(l), however, ought not, in their view, to have been admitted. Even if strictly admissible, its prejudice was out of proportion to the purpose for which it had been received, and it ought in fairness to have been excluded. However, the reception of this evidence had not influenced the Court in accepting the evidence of the eye witnesses and rejecting the evidence for the defence. On the	40
p.176 L.34 - p.177 L.34		
p.177 L.35 - p.178 L.26		
p.178 LL.32-39		
p.179 LL.2-16		
p.180 LL.13-33		50

evidence accepted, the Court must inevitably have arrived at the same verdict even if this evidence had been excluded. As regarded the questions put to Derekoglou, the learned Judges held that the Chief Justice's ruling had been justified and the cross-examination had not been improperly restricted. Considering the Chief Justice's statement, that, if the Court could not accept the story of the bicycle, that would be fatal to the Appellant's alibi, the learned Judges said they agreed to some extent with the Appellant's criticism of this. The Court, however, had not rejected the alibi for this reason, but as a result of consideration of the evidence in support of it. Considering the judgment as a whole, they did not think that this had been a fatal mistake. The Court had examined carefully the evidence of Derekoglou and Ismail, and had also considered and rejected the explanations offered for the inculpatory conduct of the Appellant. Accordingly, the appeal was dismissed.

p.180 L.34 -  
p.181 L.26

p.182 L.26 -  
p.183 L.9

p.183 L.9

p.183 L.33

7. The Respondent respectfully submits that the Assize Court was right in admitting evidence to show connection between the Appellant and EOKA. The document found upon the Appellant when he was arrested was admittedly admissible, and the three documents produced, and in particular Exhibits 14A and 14B, were admissible as evidence showing who Zedro was and tending to explain the meaning and significance of the note found on the Appellant. That note, coupled with the EOKA documents produced, provided evidence from which the Court could properly infer some connection between EOKA and the Appellant. These documents further shewed that one of the objects of EOKA was the killing of police officers. These facts provided evidence of a motive which could explain the murder of Poullis by the Appellant, and the evidence set out in paragraph 2, (k) and (l) was therefore rightly admitted.

pp.189-190

8. The Respondent respectfully submits that if any evidence was wrongly admitted it did not constitute such a miscarriage of justice as should cause the conviction of the Appellant to be quashed. There was ample evidence to justify the conviction other than the evidence said by the Appellant to have been wrongly admitted. As was stated in the judgment of the Assize Court, the vital questions in the case were whether the witnesses giving evidence for the Crown could be believed, and whether the Appellant's alibi and story of the bicycle could be believed. The Assize Court considered the evidence

RECORD

relating to all these matters, and for perfectly proper reasons, quite unconnected with the impugned evidence, accepted the evidence for the Crown and rejected the evidence for the defence. Under the circumstances the Respondent respectfully submits that this appeal falls within that class of case in which Her Majesty in Council will not interfere.

9. The Respondent respectfully submits that the learned Judges of the Assize Court were right in saying that, if the Appellant's story of the bicycle were to be rejected, his alibi could not be accepted. The story of the bicycle included the story of its loan by the Appellant to Phidias, the story of Phidias' loss of it after the murder, the story of Phidias' visit to Damianos' house and his conversation with the Appellant, and the allegation that on the 28th August the Appellant was riding a lady's bicycle. Thus, if the story of the bicycle were to be rejected, doubt would be thrown not only on the Appellant's evidence, but on the evidence of all the witnesses who spoke to these alleged events, and it would then be impossible for the Appellant's alibi to be accepted. 10 20

10. The Respondent respectfully submits that the ruling of the learned Chief Justice mentioned in paragraph 2 (b) was right, and the question which he ruled out was improper. Furthermore, it should be noted that Counsel for the Crown was stopped for just the same reason in his cross-examination of the Appellant. 30

11. The Respondent respectfully submits that this appeal ought to be dismissed, for the following (amongst other)

R E A S O N S

1. BECAUSE all the evidence given on behalf of the Crown was relevant and admissible:
2. BECAUSE the Court, after applying proper tests, accepted the evidence for the Crown identifying the murderer with the Appellant, and rejected the evidence for the Defence: 40
3. BECAUSE, apart from the evidence to which objection was made as inadmissible, the Appellant was proved by admissible evidence to be guilty:

4. BECAUSE the conduct of the trial, and the consideration of the evidence, by the Assize Court were in all respects lawful and proper:
5. BECAUSE the proceedings present no feature such as would lead Her Majesty in Council to interfere in a criminal case.

GERALD HOWARD

J.G.LE QUESNE

No.49 of 1955

IN THE PRIVY COUNCIL

---

ON APPEAL

FROM THE SUPREME COURT OF CYPRUS

---

K A R A O L I D E S            Appellant

-v-

T H E            Q U E E N            Respondent

---

CASE FOR THE

RESPONDENT

---

CHARLES RUSSELL & CO.,  
37, Norfolk Street,  
Strand, W.C.2.

Solicitors for the Respondent.