

No. 160/65

J A M A I C A

IN THE COURT OF APPEAL

R.M.C.A. NO. 160/65

BEFORE: The Hon. Mr. Justice Duffus, President
 The Hon. Mr. Justice Waddington
 The Hon. Mr. Justice Moody (Acting)

R. v. H O M E R W I L L I A M S

Mr. I. Ramsay, Q. C. appeared for the appellant

Mr. E.L. Miller appeared for the Crown.

9th November, 1965.

DUFFUS, P.,

The appellant in this case, Homer Williams, was convicted of receiving a television set. The short ground taken on appeal is that the set was not identified by the owner or by one Albert Wong, from whom the set was supposed to have been purchased for the owner's school.

We have examined carefully the evidence as to the purported identification of this set, and we are satisfied that there was no proper identification of the set. Mr. Jobson stated in his evidence that the set had been in his school for a period of approximately two weeks, that it was a brand new set and that he had no marks on it for special identification, and when he saw the set at the Police Station some 8 months later, that he identified it by its general appearance.

Mr. Wong in his evidence stated that his firm sold a number of similar sets of the particular model and that he would be unable to identify the particular set without reference to the serial number, which in this case had been obliterated from the set. The point was taken before the learned Resident Magistrate in the Court below, and the

learned.....

learned Resident Magistrate found there was a sufficiency of identification, but when we examined to see what was this "sufficiency of identification", we find it amounts to no more than this, that Mr. Jobson was saying that the set which was stolen from his school was a set similar in appearance to the set which was found with the appellant.

This Court had occasion to consider a similar point in the case of R. v. Brown, 6 W.I.R. 369 and I read from the headnote -

" It was held that when the case for the Crown depends entirely on the doctrine of recent possession there must be evidence of positive identification of the articles alleged to have been stolen."

In this case we have reluctantly come to the conclusion that there was no such positive identification. In the circumstances the appeal is allowed, conviction quashed and sentence set aside.

VHS
P.