

IN THE COURT OF APPEAL

R.M.C.A. 106/65

BEFORE: The Hon. Mr. Justice Duffus (President)
The Hon. Mr. Justice Henriques
The Hon. Mr. Justice Waddington

R. v. SIMEON CHIN

Mr. F. Phipps appeared for the Crown
Mr. Dudley Thompson, Q.C., appeared for the appellant.

18th October, 1965

DUFFUS, P:

This appellant, Simeon Chin, was charged before the learned Resident Magistrate for the parish of Westmoreland on two charges: one, the possession of drop-pan tickets, and the other, keeping a common gaming house. On the latter charge he was found not guilty; on the first charge, the possession of drop-pan tickets, he was found guilty and sentenced to 60 days imprisonment. He appeals against the sentence of 60 days imprisonment, and it has been urged on this Court by his learned counsel that the sentence was one which was manifestly excessive. The penalty provided by Section 18 of the Gambling Law Cap. 137 for possession of lottery tickets is a fine not exceeding £10, or to be imprisoned with or without hard labour for a term not exceeding three months.

The Court has listened with attention and care to the submissions of learned counsel and the Court has also given consideration to the facts which were given in evidence before

the learned Resident Magistrate. It appears from the evidence, which was uncontradicted as the appellant did not give evidence or call any witnesses, that the appellant was found in possession of certain lottery tickets connected with the lottery game known as 'drop-pan'. The expert who gave evidence stated that two of these tickets were of the type which one would expect to find with a banker or, at any rate, with a messenger to the banker whom he would regard as a principal vendor. There was evidence given also by Inspector Wright who found these tickets with the appellant, that he had known the appellant for some two years previously, that he had been keeping him under observation for some time as he suspected him of being connected with the lottery game of 'drop-pan', and that he had never seen the appellant doing any work during the two years he had known him. It seems quite obvious that the appellant's possession of these drop-pan tickets was not possession of a purchaser and not the possession of a small vendor. The tickets show that he was either himself the banker or that he was a principal vendor.

We are unable to say, after full consideration of the facts, that the sentence which was imposed by the learned Resident Magistrate in these circumstances, is one which could be called manifestly excessive. The maximum was three months and the penalty imposed was approximately one half of the maximum. The intention of the Legislature when it provided a penalty for the offense of possession, was obviously to give to the Magistrate trying the case, a very wide discretion and we are unable to say that the learned Resident Magistrate has exercised that discretion improperly. In the circumstances, the appeal will be dismissed and the conviction and sentence confirmed.