

1986
IN THE GRAND COURT OF THE CAYMAN ISLANDS (Criminal) 12-12-85
HOLDEN AT GEORGE TOWN, GRAND CAYMAN
BEFORE THE HON. MR. JUSTICE HULL

Ind. 10/85

REGINA V. LURLINE VIOLA JACKSON

REASONS FOR ORDER

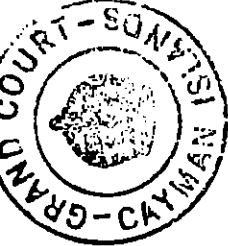
At the conclusion of the trial, after hearing counsel, I ordered that the watch the subject of Count 1 and the graduation ring the subject of Count 2 should be returned to the complainant.

The return of the ring was not opposed but because the jury had found the defendant not guilty on the two charges to which the items relate, I said I would give reasons.

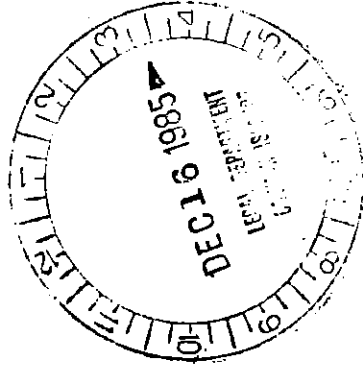
Mr. Alberga submitted that in relation to the watch, the verdict showed necessarily that the jury had accepted the defendant's explanation that the watch had been given to her by someone other than the complainant.

In court I referred to section 55 of the Criminal Procedure Code which does not in fact apply, but I had power anyway under section 54 to order restoration. I consider that my powers under the two sections are independent of the prerogatives of the jury. If the necessary consequence of its verdict was that it must have accepted a defendant's account I would hesitate before restoring property to a complainant. In this case, however, I do not think it was. The verdict is compatible with a finding that it has not been proved, to the standard required in a criminal trial, that the defendant stole the complainant's watch. On the balance of probabilities however, I am confident that the watch is the complainant's. I made the order for that reason.

D. Hull



David Hull
Puisne Judge



12th December, 1985.