

STATE V. WILLIAMS, 1972-NMCA-011, 83 N.M. 477, 493 P.2d 962 (Ct. App. 1972)

**STATE OF NEW MEXICO, Plaintiff-Appellee,
vs.
PETER JOSEPH WILLIAMS, Defendant-Appellant**

No. 747

COURT OF APPEALS OF NEW MEXICO

1972-NMCA-011, 83 N.M. 477, 493 P.2d 962

January 21, 1972

Appeal from the District Court of Lea County, Nash, Judge

COUNSEL

DAVID L. NORVELL, Attorney General, JAY F. ROSENTHAL, Asst. Attorney General, Santa Fe, New Mexico, Attorneys for Plaintiff-Appellee.

HARVEY C. MARKLEY, Lovington, New Mexico, Attorney for Defendant-Appellant.

JUDGES

HENDLEY, Judge, wrote the opinion.

WE CONCUR:

Joe W. Wood, C.J. Lewis R. Sutin, J.

AUTHOR: HENDLEY

OPINION

HENDLEY, Judge.

{1} Convicted of receiving and concealing stolen property, a television set, when the value was more than \$100.00 but less than \$2,500.00 contrary to § 40A-16-11, N.M.S.A. 1953 (Supp. 1971), defendant appeals. Defendant asserts two points for reversal. We affirm.

{2} Defendant first contends that the motel manager was not qualified to testify regarding the value of the television set and his motion to dismiss at the close of defendant's case should have been granted. The motel manager testified that he was

familiar with the value of the television sets that are sold to motels and testified that a used set like the one involved was worth between \$150.00 and \$200.00. We see no reason to distinguish between the opinion evidence of a manager who is familiar with cost and the opinion evidence of an owner. See *State v. Zarafonetis*, 81 N.M. 674, 472 P.2d 388 (Ct. App. 1970). The testimony of the manager was competent and meets the substantial evidence test. *State v. Zarafonetis*, supra.

{3} Defendant next contends and he so testified at trial, that the police told him "it might go easier" if he would admit he knew the television set was stolen. Defendant argues his admission of guilt was obtained through deception and should have been excluded. This matter requiring determination on evidence is first raised on appeal and was never raised nor ruled on {478} by the trial court. This cannot be done. *State v. Colvin*, 82 N.M. 287, 480 P.2d 401 (Ct. App. 1971); *State v. Martinez*, 52 N.M. 343, 198 P.2d 256 (1948).

{4} Affirmed.

{5} IT IS SO ORDERED.

WE CONCUR:

Joe W. Wood, C.J., Lewis R. Sutin, J.