

**APODACA V. STATE, 1972-NMCA-115, 84 N.M. 172, 500 P.2d 742 (Ct. App. 1972)**

**WILLIE APODACA, Petitioner-Appellant,  
vs.  
STATE OF NEW MEXICO, Respondent-Appellee**

No. 947

COURT OF APPEALS OF NEW MEXICO

1972-NMCA-115, 84 N.M. 172, 500 P.2d 742

August 11, 1972

Appeal from the District Court of Quay County, Gallegos, Judge

**COUNSEL**

STANLEY F. FROST, Tucumcari, New Mexico, Attorney for Appellant.

DAVID L. NORVELL, Attorney General, FRANK N. CHAVEZ, Assistant Attorney General, Santa Fe New Mexico, Attorneys for Appellee.

**JUDGES**

COWAN, Judge, wrote the opinion.

WE CONCUR:

Joe W. Wood, C.J., William R. Hendley, J.

**AUTHOR: COWAN**

**OPINION**

COWAN, Judge.

{1} Defendant appeals from an order denying, without a hearing, a "Petition For A Rule 93", filed pursuant to Rule 93 [§ 21-1-1(93), N.M.S.A. 1953 (Repl. Vol.4)]. His conviction for aggravated assault was affirmed by this court in State v. Apodaca, 81 N.M. 580, 469 P.2d 729 (Ct. App. 1970).

{2} We affirm.

{3} Defendant argues that his constitutional rights were violated because the state failed to introduce into evidence the weapon with which the alleged assault was committed.

{4} This was a matter which should have been submitted to this court for its consideration on direct appeal. Proceedings under Rule 93 are not intended as a substitute for an appeal as a means for correcting errors which may have occurred during the course of the trial nor as a method by which one can obtain consideration of questions which might have been raised on appeal. State v. Beachum, 83 N.M. 526, 494 P.2d 188 (Ct. App. 1972).

{5} The order denying relief is affirmed.

{6} IT IS SO ORDERED.

WE CONCUR:

Joe W. Wood, C.J., William R. Hendley, J.