

**HUNT V. O'CHESKEY, 1973-NMCA-026, 85 N.M. 381, 512 P.2d 954 (Ct. App. 1973)**

**EMMETT K. HUNT and MARY E. HUNT, his wife Appellants**  
**vs.**  
**FRED L. O'CHESKEY, COMMISSIONER OF THE BUREAU OF REVENUE OF**  
**THE STATE OF NEW MEXICO and THE BUREAU OF REVENUE OF**  
**THE STATE OF NEW MEXICO, Appellees**

No. 931

COURT OF APPEALS OF NEW MEXICO

1973-NMCA-026, 85 N.M. 381, 512 P.2d 954

February 09, 1973

Administrative Appeal

Motion for Rehearing Denied March 5, 1973

**COUNSEL**

PHILIP R. ASHBY, Albuquerque, New Mexico, Attorney for Appellants.

L. LAMAR PARRISH, USSERY, BURCIAGA & PARRISH; VICTOR R. ORTEGA, U.S. Attorney, JAMES B. GRANT, Ass't. U.S. Attorney; Albuquerque, New Mexico, KENT FRIZZELL, Ass't Attorney General of the U.S., GEORGE R. HYDE, DIRK D. SNEL, Dept. of Justice, Washington, D.C., amicus curiae.

DAVID L. NORVELL, Attorney General, JOHN C. COOK, CURTIS W. SCHWARTZ, Bureau of Revenue, Assistant Attorneys General, Santa Fe, New Mexico, Attorneys for Appellees.

**JUDGES**

WOOD; HENDLEY; HERNANDEZ

**AUTHOR:** WOOD

**OPINION**

ORDER

{1} This appeal questions the authority of New Mexico to tax income and gross receipts of Indians residing on a reservation when the income and gross receipts involved are

derived solely from activities within the reservation. All Judges of the panel are of the opinion that New Mexico may not tax gross receipts under the above circumstances. A majority are of the opinion that New Mexico may not tax income under the above circumstances. The Judges' opinions are attached.

**{2}** Accordingly, the Commissioner's Decision and Order applying these taxes to the Hunts' income and gross receipts is reversed.

**{3}** IT IS SO ORDERED.

/s/ JOE W. WOOD Chief Judge