

**STATE OF NEW MEXICO, Plaintiff-Appellee,  
vs.  
MONROE McAFEE, Defendant-Appellant**

No. 357

COURT OF APPEALS OF NEW MEXICO

1969-NMCA-100, 80 N.M. 739, 460 P.2d 1023

October 31, 1969

Appeal from the District Court of Eddy County, Neal, Judge.

**COUNSEL**

JAMES A. MALONEY, Attorney General, Santa Fe, OLIVER H. MILES, Asst. Atty. Gen., Attorneys for appellee.

JAMES F. WARDEN, Carlsbad, New Mexico, Attorney for appellant.

**JUDGES**

WOOD, Judge, wrote the opinion.

WE CONCUR:

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

**AUTHOR: WOOD**

**OPINION**

WOOD, Judge.

{1} Defendant's conviction and sentence was affirmed in State v. McAfee, 78 N.M. 108, 428 P.2d 647 (1967). Subsequently, he moved for post-conviction relief under § 21-1-1(93), N.M.S.A. 1953 (Supp. 1969). The trial court held that matters raised by this motion were decided adversely to defendant in the prior appeal. Defendant now appeals from the order denying his motion.

{2} The trial court correctly ruled that each of the claims made in the post-conviction motion were considered and decided in defendant's prior appeal. Issues raised and

decided on a prior appeal may not be relitigated in post-conviction proceedings. Defendant is not entitled to a successive determination on the merits of the same issue. Nance v. State, 80 N.M. 123, 452 P.2d 192 (Ct. App. 1969).

{3} The order denying post-conviction relief is affirmed.

{4} IT IS SO ORDERED.

WE CONCUR:

Waldo Spiess, C.J., LaFel E. Oman, J.