

STATE V. MADRID, 1971-NMCA-055, 82 N.M. 525, 484 P.2d 367 (Ct. App. 1971)

**STATE OF NEW MEXICO, Plaintiff-Appellee,
vs.
RAMON MADRID, Defendant-Appellant**

No. 617

COURT OF APPEALS OF NEW MEXICO

1971-NMCA-055, 82 N.M. 525, 484 P.2d 367

April 16, 1971

Appeal from the District Court of Dona Ana County, Sanders, Judge

COUNSEL

JOHN A. ANDERSON, Attorney at Law, Las Cruces, New Mexico, Attorney for Appellant.

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

JUDGES

SPIESS, Chief Judge, wrote the opinion.

WE CONCUR:

William R. Hendley, J., Lewis R. Sutin, J.

AUTHOR: SPIESS

OPINION

SPIESS, Chief Judge, Court of Appeals.

{1} Defendant was convicted and sentenced for the unlawful possession of marijuana under § 54-7-13, N.M.S.A. 1953 (Repl. Vol. 8, Pt. 2). This Act is known as the Uniform Narcotics Drug Act.

{2} Defendant has appealed challenging the constitutionality of the Uniform Narcotics Drug Act. {*526} We do not consider the constitutional question raised because, in our opinion, the trial court proceeded without jurisdiction to try and sentence defendant

under the Uniform Narcotics Drug Act; the applicable Act being § 54-5-14, N.M.S.A. 1953.

{3} This case, in our opinion, falls squarely within *State v. McNeece*, 82 N.M. 345, 481 P.2d 707 (Ct. App. 1971); See *State v. Riley*, 82 N.M. 235, 478 P.2d 563 (Ct. App. 1970); *State v. Rendleman*, 481 P.2d 708 (Ct. App.) decided February 12, 1971; and *State v. Thorn*, 483 P.2d 312 (Ct. App.) decided March 12, 1971.

{4} We reverse with instructions to vacate the judgment and sentence and dismiss the charge under which defendant was convicted.

{5} IT IS SO ORDERED.

WE CONCUR:

William R. Hendley, J., Lewis R. Sutin. J.