

**STATE OF NEW MEXICO, Appellee,
vs.
JESSIE CLARK, Appellant**

No. 896

COURT OF APPEALS OF NEW MEXICO

1972-NMCA-112, 84 N.M. 150, 500 P.2d 435

August 04, 1972

Appeal from the District Court of Eddy County, Archer, Judge

COUNSEL

DAVID L. NORVELL, Attorney General of New Mexico, RONALD VAN AMBERG, Assistant Attorney General, Santa Fe, New Mexico, Attorneys for Appellee.

JENNIE DEDEN BEHLES, DANIEL J. BEHLES, Behles & Behles, Carlsbad, New Mexico, Attorneys for Appellant.

JUDGES

HERNANDEZ, Judge, wrote the opinion.

WE CONCUR:

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

AUTHOR: HERNANDEZ

OPINION

{*151} HERNANDEZ, Judge.

{1} This is an appeal from a denial of relief sought under Rule 93 (§ 21-1-1 (93), N.M.S.A. 1953, Repl. Vol. 4). Appellant was convicted of forgery in the District Court, Eddy County and his conviction affirmed by this court. State v. Clark, 83 N.M. 484, 493 P.2d 969 (Ct. App. 1972), cert. denied, 83 N.M. 473, 493 P.2d 958 (1972).

{2} Defendant relies upon the following points for reversal: (1) There was no substantial evidence upon which the verdict of the jury could be based. (2) The court erred in

denying appellant's petition for writ of habeas corpus filed on April 15, 1971. (3) The court erred in denying appellant's request for transcript of proceedings. (4) Bias as displayed by the trial court denied appellant a fair trial.

{3} Points 2, 3 and 4 were raised and decided against defendant in his direct appeal and will not be reviewed in this proceeding. That is to say, a Rule 93 motion may not be used to reconsider matters previously considered on appeal. *Herring v. State*, 81 N.M. 21, 462 P.2d 468 (Ct. App. 1969); *Nance v. State*, 80 N.M. 123, 452 P.2d 192 (Ct. App. 1969).

{4} Point 1 was not raised in the original appeal and therefore will not be considered now. Ordinarily these proceedings cannot be used as a substitute for an appeal. *State v. Williams*, 80 N.M. 63, 451 P.2d 556 (1969).

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

{6} IT IS SO ORDERED.

WE CONCUR:

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