

**STATE OF NEW MEXICO, Plaintiff-Appellee
vs.
ALTON BREWTON, JR., Defendant-Appellant**

No. 1028

COURT OF APPEALS OF NEW MEXICO

1973-NMCA-037, 84 N.M. 763, 508 P.2d 33

March 02, 1973

Appeal from the District Court of Chavez County, Snead, Judge

COUNSEL

DAVID L. NORVELL, Attorney General, PRENTIS REID GRIFFITH, Jr., Asst. Atty. Gen., Santa Fe, New Mexico, Attorneys for Plaintiff-Appellee.

ALAN A. NORWOOD, Roswell, New Mexico, Attorney for Defendant-Appellant.

JUDGES

HERNANDEZ, Judge, wrote the opinion.

WE CONCUR:

WILLIAM R. HENDLEY, J., LEWIS R. SUTIN, J.

AUTHOR: HERNANDEZ

OPINION

HERNANDEZ, Judge.

{1} Defendant filed a handwritten petition in the District Court for Chaves County styled "Motion for Report of Proceedings under Rule 607" in which he asks for a free transcript of his conviction on a charge of receiving and concealing stolen property {*764} in excess of \$100,000. Section 40A-16-118 N.M.S.A. 1953 (2d Repl. Vol. 6). He alleges he is indigent; the state does not controvert his indigency. The judgment and sentence as certified to this court indicated that defendant entered a plea of guilty to that offense on November 27, 1968 in the District Court of Chaves County.

{2} Defendant's brief-in-chief states that the purpose of obtaining the transcript of proceedings is to prepare a writ of habeas corpus or an appeal under Rule 93 (§ 21-1-1(93), N.M.S.A. 1953 (Repl. Vol. 4)). He argues that the refusal of the trial court to provide him with a free transcript denies him equal protection of the laws as guaranteed by the United States Constitution.

{3} Defendant's motion is identical with the motion filed by the defendant in State v. Toussaint, (Ct. App.) 84 N.M. 677, 506 P.2d 1224, decided February 16, 1973, and that decision is dispositive of this case.

{4} We affirm.

{5} IT IS SO ORDERED.

WE CONCUR:

HENDLEY, J., SUTIN, J.