

CORNETT V. FULFER, 1919-NMSC-074, 26 N.M. 175, 189 P. 1108 (S. Ct. 1919)

**CORNETT
vs.
FULFER**

No. 2384

SUPREME COURT OF NEW MEXICO

1919-NMSC-074, 26 N.M. 175, 189 P. 1108

December 04, 1919

Appeal from District Court, De Baca County; Richardson, Judge.

Action by J. H. Cornett against J. P. Fulfer. Judgment for plaintiff, and defendant appeals.

SYLLABUS

SYLLABUS BY THE COURT

Where record fails to disclose a judgment, order, or decision, final or interlocutory, the appeal will be dismissed upon motion therefor.

COUNSEL

R. A. Prentice, of Tucumcari, for appellant.

J. E. Pardue and T. M. Noble, both of Ft. Sumner, for appellee.

JUDGES

Parker, C. J.

AUTHOR: PARKER

OPINION

{*175} {1} OPINION OF THE COURT. The record in this case does not contain either a final judgment or an interlocutory judgment, order, or decision practically disposing of the merits of the case. The record does contain a memorandum opinion of the trial court upon a proposition of {*176} law, but nothing else in the nature of a judgment. The memorandum opinion recites that an order may be prepared in accordance therewith;

but, if any order or judgment was prepared, it was omitted from the record on this appeal.

{2} Appeals are allowed in all civil actions from final judgments, and from such interlocutory judgments, orders, and decisions as practically dispose of the merits of the action. Sections 1 and 2, chapter 43, Laws 1917. As there is no judgment, order, or decision, final or interlocutory, contained in the record, the motion of appellee to dismiss the appeal is granted; and it is so ordered.