

EATON V. FIRST NAT'L BANK, 1918-NMSC-006, 23 N.M. 687, 170 P. 45 (S. Ct. 1918)

**EATON
vs.
FIRST NAT. BANK OF DALHART, TEX.**

No. 1943.

SUPREME COURT OF NEW MEXICO

1918-NMSC-006, 23 N.M. 687, 170 P. 45

January 07, 1918, Decided

Error to District Court, Union County; Leib, Judge.

Action between William J. Eaton and the First National Bank of Delhart, Texas. Judgment for the latter, and the former brings error. Affirmed.

SYLLABUS

SYLLABUS BY THE COURT.

Questions dependent upon facts appearing in the transcript of evidence cannot be considered where the proceedings at the trial are not made a part of the record by bill of exceptions, or certified to by the court or referee.

COUNSEL

O. P. Easterwood, of Clayton, and W. J. Eaton, of Socorro, for plaintiff in error. Joseph Gill, of Clayton, for defendant in error.

JUDGES

HANNA, C. J. PARKER and ROBERTS, JJ., concur.

AUTHOR: HANNA

OPINION

{*687} {1} OPINION OF THE COURT. HANNA, C. J. The plaintiff in error assigns nine reasons why the judgment of the trial court should be reversed. Each error assigned depends upon the record of the transcript of testimony and proceedings at the trial. That record is certified to by the stenographer, but was not made a part of the record by bill

of exceptions, nor certified to by the trial judge. The certificate of the stenographer is not sufficient in itself to make such proceedings a part of the record {*688} for review here. Cox v. Douglas Candy Co., 22 N.M. 410, 163 P. 251; Rogers v. Crawford, 22 N.M. 365, 161 P. 1184.

{2} Consequently the judgment of the trial court will be affirmed, and it is so ordered.

PARKER and ROBERTS, JJ., concur.