

HUBBELL V. ARMIJO, 1906-NMSC-020, 13 N.M. 480, 85 P. 477 (S. Ct. 1906)

**THOMAS S. HUBBELL, Appellant,
vs.
PERFECTO ARMIJO, Appellee**

No. 1116

SUPREME COURT OF NEW MEXICO

1906-NMSC-020, 13 N.M. 480, 85 P. 477

March 02, 1906

Appeal from the District Court of Bernalillo County, before Ira A. Abott, Associate Justice.

COUNSEL

W. B. Childers, A. B. McMillen, E. W. Dobson, for appellant.

JUDGES

Parker, J. William J. Mills, C. J., Wm. H. Pope, A. J., John R. McFie, A. J., Edward A. Mann, A. J., concur. Abbott, A. J., having heard the case below, did not participate in this decision.

AUTHOR: PARKER

OPINION

{*480} OPINION OF THE COURT.

{1} Appellant brought a bill for injunction against appellee to restrain him from interfering with appellant in the discharge of his duties as sheriff of Bernalillo county. Appellee answered, setting up his commission from the governor, his qualification, and claimed to be in possession of the office. A demurrer was interposed to the answer, overruled as to that but carried back to the complaint and sustained as to the latter. Appellant electing to stand upon his bill of complaint, the same was dismissed for want of jurisdiction.

{2} Subsequently, as appears from the briefs of counsel, {*481} appellant abandoned his possession of the office and brought **quo warranto** proceedings to try the title thereto.

{3} This brings the case within the doctrine stated in Hubbell v. Dame, decided at this term, and it will be disposed of in the same way as that case and for the same reasons. While that was a mandamus proceeding and this is a proceeding for injunction, the principle involved is the same in each case and this court is not in position to award appellant any effectual relief.

{4} The appeal is dismissed.