

**PACHECO V. PACHECO, 1971-NMSC-049, 82 N.M. 486, 484 P.2d 328 (S. Ct. 1971)**

**MYRTLE E. PACHECO, Plaintiff-Appellee,  
vs.  
LUIS PACHECO, Defendant-Appellant**

No. 9156

SUPREME COURT OF NEW MEXICO

1971-NMSC-049, 82 N.M. 486, 484 P.2d 328

April 26, 1971

Appeal from the District Court of Los Alamos County, Scarborough, Judge

**COUNSEL**

ABNER SCHREIBER, Los Alamos, New Mexico, Attorney for Appellee.

BRANCH & DICKSON, Albuquerque, New Mexico, Attorneys for Appellant.

**JUDGES**

TACKETT, Justice, wrote the opinion.

WE CONCUR:

LaFel E. Oman, J., Donnan Stephenson, J.

**AUTHOR:** TACKETT

**OPINION**

TACKETT, Justice.

{1} This is an appeal of an order entered by the District Court of Los Alamos County, New Mexico. After hearing on an order to show cause, the defendant Pacheco was found in contempt of court for failure to pay child support. Judgment was entered against Pacheco for \$16,000 for arrearage of child support. The sentence on contempt was held in abeyance for a period of thirty days to allow Pacheco to purge himself of the contempt. This he did not do but immediately appealed.

{2} There being no final order entered in this case by the trial court, this court is without jurisdiction in the matter.

{3} While the jurisdictional question was not raised by either party, an appellate court will and should, on its own motion, raise lack of jurisdiction where an order lacks finality due to an absence of the necessary determination and order of the trial court. *Aetna Casualty & Surety Company v. Miles*, 80 N.M. 237, 453 P.2d 757 (1969).

{4} The appeal is dismissed.

{5} IT IS SO ORDERED.

WE CONCUR:

LaFel E. Oman, J., Donnan Stephenson, J.