

**STATE of New Mexico, Appellee,  
vs.  
Clem SUTTON, Appellant**

No. 3794

SUPREME COURT OF NEW MEXICO

1933-NMSC-016, 37 N.M. 193, 20 P.2d 288

February 21, 1933

Appeal from District Court, Curry County; Harry L. Patton, Judge.

**COUNSEL**

James A. Hall, of Clovis, for appellant.

E. K. Neumann, Atty. Gen., and Quincy D. Adams, Asst. Atty. Gen., for the State.

**JUDGES**

Zinn, Justice. Watson, C. J., and Sadler, Hudspeth, and Bickley, JJ., concur.

**AUTHOR: ZINN**

**OPINION**

{\*194} {1} This case is on appeal from Curry county, where, on September 5, 1931, an information was filed against the appellant, charging him with having in his possession mash containing alcohol for distillation, for the purpose of manufacturing intoxicating liquor. The appellant was arraigned on September 7, 1931, and trial was had on September 11, 1931. At the close of the state's case, the defendant moved the court to instruct the jury to return a verdict of not guilty, for the reason that there was not substantial and sufficient evidence to sustain a verdict of guilty, if one should be found, which motion was overruled. The defendant rested at the close of the state's case. The jury brought in a verdict of guilty. On the 21st day of September, 1931, the appellant was sentenced by the court to pay a fine of \$ 100, costs of the prosecution, and to serve a sentence of six months in the Curry County Jail, three months of which sentence the court suspended during good behavior. From this sentence, the appellant appeals and assigns as error that there is no substantial evidence and not sufficient evidence to sustain a verdict of guilty.

{2} The only question presented is whether there was substantial and sufficient evidence to support the verdict.

{3} Upon careful examination of the evidence and the record, we find that there was substantial and sufficient evidence of the guilt of the appellant, to warrant the court below in overruling the motion of the appellant for a directed verdict, and the court did not err in submitting the case to the jury, and the evidence supports the verdict.

{4} The judgment and sentence is affirmed, and the cause is ordered remanded to the district court for enforcement. It is so ordered.