

STATE V. RILEY, 1936-NMSC-013, 40 N.M. 132, 55 P.2d 743 (S. Ct. 1936)

**STATE
vs.
RILEY**

No. 4166

SUPREME COURT OF NEW MEXICO

1936-NMSC-013, 40 N.M. 132, 55 P.2d 743

March 09, 1936

Appeal from District Court, Torrance County; Numa C. Frenger, Judge.

John F. Riley was convicted of horse stealing, and he appeals.

COUNSEL

R. M. Krannawitter, of Vaughn, and Charles F. Fishback, of Fort Sumner, for appellant.

Frank H. Patton, Atty. Gen., and Edward P. Chase, Asst. Atty. Gen., for the State.

JUDGES

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

AUTHOR: BICKLEY

OPINION

{*132} {1} Defendant was convicted of horse stealing. The evidence substantiates the verdict. Besides assailing the sufficiency of the evidence, appellant complains of the court's denial of his motion for continuance on account of absence of a witness. No facts were pleaded in the motion showing reasonable ground for belief that the attendance of the witness would be procured at the next court term. The motion contained no allegation that the defendant knew of no other witness by whom the facts could be fully proved. These defects defeat the motion. See *Kent v. Favor*, 3 N.M. 347, 5 P. 470; *State v. Probert*, 19 N.M. 13, 140 P. 1108.

{*133} {2} There was no error in permitting the defendant, a witness in his own behalf, to be asked on cross-examination whether he had been convicted of a felony and served a term in the penitentiary. See section 45-606, Comp.St.1929, which in part is as

follows: "A witness may be questioned as to whether he has been convicted of any felony or misdemeanor."

{3} Finding no error in the record, the judgment is affirmed and it is so ordered.