

SUMMERFORD V. SOVEREIGN CAMP, W. O. W., 1936-NMSC-043, 40 N.M. 330, 59 P.2d 893 (S. Ct. 1936)

**SUMMERFORD
vs.
SOVEREIGN CAMP, W. O. W.**

No. 4182

SUPREME COURT OF NEW MEXICO

1936-NMSC-043, 40 N.M. 330, 59 P.2d 893

June 29, 1936

Appeal from District Court, Dona Ana County; Frenger, Judge.

Action by Margaret D. Summerford against the Sovereign Camp of the Woodmen of the World. Judgment for plaintiff, and defendant appeals.

COUNSEL

Edwin Mechem, of Las Cruces, for appellant.

W. C. Whatley, of Las Cruces, for appellee.

JUDGES

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

AUTHOR: ZINN

OPINION

{*330} {1} Appellee recovered a judgment against the appellant in the sum of \$ 1,000 upon a contract of insurance written upon the life {*331} of John O. Summerford. From that judgment this appeal is prosecuted.

{2} The entire case rests upon the sufficiency of the evidence to sustain the verdict of the jury, in that the issue turned upon whether or not the death of Summerford was suicidal or whether he died from causes other than by self-destruction.

{3} We have read the facts from every light as presented by both appellant and appellee. It would add nothing to the law to narrate the facts herein at length. From such careful reading of the facts we cannot account for the conclusion of the jury. Ordinarily,

the determination of the jury on such questions is conclusive upon us where the verdict is supported by substantial evidence, and it is only in those cases wherein there is no substantial evidence to support the verdict that the same is set aside on appeal. In the instant case the irresistible conclusion is that Summerford committed suicide.

{4} The facts in this case lead us to the same conclusions reached by this court in the case of *Skala v. New York Life Ins. Co.*, 24 N.M. 78, 172 P. 1046, 1047, which statement of Mr. Justice Hanna, who wrote the opinion, we can repeat verbatim as being applicable here, to wit: "Every fact of importance discloses that the insured committed suicide."

{5} The trial court should have sustained appellant's motion for a directed verdict. In not sustaining such motion, it erred. For the reasons given, the judgment will be reversed and the cause remanded, with instructions to proceed in accordance with this opinion.

{6} It is so ordered.