

STATE V. MARTIN, 1949-NMSC-011, 53 N.M. 113, 202 P.2d 968 (S. Ct. 1949)

**STATE of New Mexico, plaintiff in error,
vs.
Joe MARTIN, defendant in error**

No. 5114

SUPREME COURT OF NEW MEXICO

1949-NMSC-011, 53 N.M. 113, 202 P.2d 968

February 11, 1949

Error to District Court, Bernalillo County; R. F. Deacon Arledge, Judge.

COUNSEL

C. C. McCulloh, Atty. Gen., Robert V. Wollard and Walter R. Kegel, Asst. Attys. Gen., and Harry D. Robins, Asst. Dist. Atty., of Albuquerque, for plaintiff in error.

Harold O. Waggoner, of Albuquerque, for defendant in error.

JUDGES

Brice, C.J., and Sadler, Lujan, and Compton, JJ., concur. McGhee, J., dissents.

AUTHOR: PER CURIAM

OPINION

{*113} {1} The same questions are presented in this case as in the case of State v. McKinley, 53 N.M. 106, 202 P.2d 964, and with which it has been consolidated for oral argument and submission. Accordingly, on the authority of the pronouncements made in the opinion in the latter case, the judgment in this case is erroneous and should be reversed and the cause remanded to the District Court with a direction to set aside its judgment and enter an order overruling the defendant's motion to quash and for further proceedings not inconsistent with the views expressed in the opinion in State v. McKinley, supra.

{2} It is so ordered.