

STATE V. BARNETT, 1951-NMSC-084, 56 N.M. 1, 238 P.2d 694 (S. Ct. 1951)

**STATE
vs.
BARNETT et al.**

No. 5457

SUPREME COURT OF NEW MEXICO

1951-NMSC-084, 56 N.M. 1, 238 P.2d 694

December 14, 1951

An Information was brought against J. O. Barnett, Tharp Williams, Bill Williams and Bud Maffett charging that they entered upon posted premises for the purpose of hunting birds in violation of statute. The District Court, Roosevelt County, E. T. Hensley, Jr., J., entered an order overruling defendants' motion to quash the information and defendants appealed. The Supreme Court, McGhee, J., held that appeal would not lie from order overruling motion to quash information in absence of statutory provisions for such appeal.

COUNSEL

Gore, Babbitt & Nieves and Quinn & Cox, Clovis, for appellants.

Joe L. Martinez, Atty. Gen., Hilario Rubio, Asst. Atty. Gen., James C. Compton, Asst. Dist. Atty., Portales, for appellee.

JUDGES

McGhee, Justice. Lujan, C.J., and Sadler and Compton, JJ., concur. Coors, J., not participating.

AUTHOR: MCGHEE

OPINION

{*2} {1} An information was brought against defendants charging they entered upon posted premises for the purpose of hunting birds, in violation of Chap. 43 - 405, N.M.S.A., 1941 Compilation. It was stipulated by the Assistant District Attorney and counsel for defendants that the premises were posted by publication and notices in English only and that said lands were not posted by publication and notices in the Spanish language in accordance with the provisions of said Chap. 43 - 405, and for this

omission defendants filed a motion to quash the information. The defendants have appealed to this court from an adverse ruling by the trial court on said motion.

{2} An appeal does not lie to this court from an order overruling a motion to quash an information in the absence of express statutory authority therefor. A careful review of our statutes discloses no provision for such an appeal. Therefore, this appeal is dismissed. However, the defendants may preserve their objection to the information and bring the case before us in the event of their conviction and sentence in the trial court.

{3} It Is So Ordered.