

**STATE of New Mexico, Plaintiff-Appellant,
vs.
Hartsill MARTIN, Defendant-Appellee**

No. 5820

SUPREME COURT OF NEW MEXICO

1954-NMSC-097, 58 N.M. 685, 274 P.2d 964

October 11, 1954

Action wherein District Court, Eddy County, Luis E. Armijo, D.J., entered judgment from which state appealed. Appellee filed motion in Supreme Court to strike state's transcript and dismiss appeal. The State countered with a motion to strike appellee's motion. The Supreme Court, Per Curiam, held that state had proceeded on appeal without compliance with basic court rules governing appellate procedure, and appellee was entitled to granting of his motion to dismiss appeal.

COUNSEL

Richard H. Robinson, Atty. Gen., Fred M. Standley, Asst. Atty. Gen., Henry A. Kiker, Jr., Asst. Atty. Gen., for appellant.

Neal, Neumann & Neal, Dow & Lawless, Carlsbad, for appellee.

JUDGES

McGhee, C.J., and Sadler, Compton, Lujan and Seymour, JJ., concur.

AUTHOR: PER CURIAM

OPINION

{*685} {1} Appellee filed his motion in this Court to strike appellant's transcript and to dismiss the appeal. Appellant countered with a motion to strike appellee's motion. After hearing argument on both motions, it is the conclusion of this Court that appellant's motion to strike is without merit, and it is denied. Appellee's motion to dismiss the state's appeal is hereby granted for the reason that the state, as appellant, has proceeded in connection with this appeal without compliance with the basic rules of this Court concerning appellate procedure. Appellants counsel here did not appear below.

{2} Appellant's appeal is dismissed.

{3} It is so ordered.