

**STATE EX REL. REYNOLDS V. LEWIS, 1964-NMSC-095, 74 N.M. 442, 394 P.2d 593
(S. Ct. 1964)**

**STATE of New Mexico ex rel. S. E. REYNOLDS, State Engineer,
and Pecos Valley Artesian Conservancy District,
Plaintiffs-Appellees,**

vs.

L. T. LEWIS et al., Boone Jones, Defendants-Appellants

No. 7393

SUPREME COURT OF NEW MEXICO

1964-NMSC-095, 74 N.M. 442, 394 P.2d 593

May 04, 1964

Motion for Rehearing Denied August 24, 1964

Suit for adjudication of water rights. From an adverse order of the District Court, Chaves County, E. T. Hensley, Jr., D.J., defendants appealed. The Supreme Court, Noble, J., held that findings which were supported by substantial evidence would not be disturbed.

COUNSEL

Earl E. Hartley, Atty. Gen., Santa Fe, Charles D. Harris, Sp. Asst. Atty. Gen., Roswell, for appellees.

William M. Siegenthaler, Artesia, for appellants.

JUDGES

Noble, Justice. Compton, C.J. and Carmody, J., concur.

AUTHOR: NOBLE

OPINION

{*442} {1} Defendant Lewis has appealed from an order entered in Omnibus Cause Number 20294, Chaves County, by which defendants' water right in the Roswell Artesian Basin was determined to be for 23.1 acres rather than for 30.3 acres claimed.

{2} The evidence was heard by a special master, all of whose findings and conclusions, insofar as pertinent to the issues in this appeal, were approved and adopted by the trial court. While the attack here is upon the court's findings, an appellate court must first

review the sufficiency of the evidence to support those made by the master, Witt v. Skelly Oil Company, 71 N.M. 411, 379 P.2d 61. Since the findings by the court and the master are identical, {443} we shall consider the attack, in this case, as though directed to the master's findings.

{3} The principal challenge is directed to hydrographic survey maps, designated as the "Dallas Survey," a re-survey map sheet 16, 26-35, and a "resources planning board map." It is claimed that the facts disclosed by these maps are not substantially supported by the evidence. These hydrographic survey maps were similarly attacked in People ex rel. Reynolds v. Fulton, 74 N.M. 406, 394 P.2d 258, opinion filed April 27, 1964, a similar appeal from the same omnibus cause. The effect of these maps was determined adversely to defendants' contention in Fulton, and on authority of that decision defendants' (appellants') points I and III are without merit.

{4} A review of the record discloses that findings of fact numbers 3, 9 and 10, attacked by appellants under point II are supported by substantial evidence; and, under the well-established rule, this court, on appeal, will not disturb such findings. The fact that there may have been contrary evidence which would have supported a different finding does not permit us to weigh the evidence. Sanchez v. Garcia, 72 N.M. 406, 384 P.2d 681; Gladin v. Compton, 72 N.M. 175, 381 P.2d 961. The trial court, as trier of the facts, must resolve all conflicts and we are bound by such findings unless they are set aside as unsupported by the evidence. Renehan v. Lobato, 55 N.M. 532, 237 P.2d 100.

{5} It follows that the order appealed from should be affirmed.

{6} It is so ordered.