

**STATE V. RAMIREZ, 1971-NMSC-050, 82 N.M. 486, 484 P.2d 328 (S. Ct. 1971)**

**STATE OF NEW MEXICO, Plaintiff-Appellee,  
vs.  
HENRY RAMIREZ, Defendant-Appellant**

No. 9182

SUPREME COURT OF NEW MEXICO

1971-NMSC-050, 82 N.M. 486, 484 P.2d 328

April 26, 1971

Appeal from the District Court of Bernalillo County, Reidy, Judge

**COUNSEL**

DAVID L. NORVELL, Attorney General, C. EMERY CUDDY, JR, Assistant Attorney General, Santa Fe, New Mexico, Attorneys for Appellee.

ROBERT N. SINGER, Albuquerque, New Mexico, Attorney for Appellant.

**JUDGES**

COMPTON, Chief Justice, wrote the opinion.

WE CONCUR:

Paul Tackett, J., LaFel E. Oman, J.

**AUTHOR: COMPTON**

**OPINION**

{\*487} COMPTON, Chief Justice.

{1} Appellant was found guilty of murder in the first degree and was sentenced to life imprisonment. He appealed and the judgment was affirmed. State v. Ramirez, 79 N.M. 475, 444 P.2d 986. Subsequently, on November 7, 1969, he filed a motion for post-conviction relief pursuant to Rule 93 [§ 21-1-1(93) N.M.S.A. 1953] which was denied. Thereafter, on July 16, 1970, a second motion for relief was filed by him under the same rule, with a request that the court appoint counsel to aid him in connection with his motion. The court refused to appoint counsel and denied relief without a hearing, and he has appealed.

{2} Appellant contends that failure to appoint counsel to assist him violated his constitutional rights to counsel and effectively denied him due process of law. There is no merit to his contentions. His motion was a successive motion and states no basis for relief. In this situation the appointment of counsel was not required. The court did not err in denying his motion without a hearing. *State v. Tafoya*, 81 N.M. 686, 472 P.2d 651 (Ct. App.). Compare *State v. Sisneros*, 79 N.M. 600, 446 P.2d 875.

{3} The order denying relief should be affirmed.

{4} IT IS SO ORDERED.

WE CONCUR:

Paul Tackett, J., LaFel E. Oman, J.