

**QUINTANA V. QUINTANA, 1971-NMSC-070, 82 N.M. 698, 487 P.2d 126 (S. Ct. 1971)**

**PETITION OF DOMINICO QUINTANA AND ALICE QUINTANA TO ADOPT  
DEBORAH JEAN QUINTANA AND MARVIN JAMES QUINTANA.**

**ANASTACIA GARCIA QUINTANA, Appellant,**

**vs.**

**DOMINICO QUINTANA and ALICE QUINTANA, Appellees**

No. 9211

SUPREME COURT OF NEW MEXICO

1971-NMSC-070, 82 N.M. 698, 487 P.2d 126

June 28, 1971

Appeal from the District Court of San Miguel County, Angel, Judge

**COUNSEL**

VAUGHAN, MAREK & PAONE, Albuquerque, New Mexico, Attorneys for Appellant.

ROBERTO L. ARMIJO, Las Vegas, New Mexico, Attorney for Appellees.

**JUDGES**

McMANUS, Justice, wrote the opinion.

WE CONCUR:

J. C. Compton, C.J., Donnan Stephenson, J.

**AUTHOR: MCMANUS**

**OPINION**

McMANUS, Justice.

{1} The defendant appeals from an order of the District Court of San Juan County, New Mexico, dispensing with the defendant's consent to the adoption of her two children by the paternal grandparents.

{2} Consent was dispensed with pursuant to § 22-2-6(A) (3), N.M.S.A. (1967 Supp.).

{3} Supreme Court Rule 5(2) states:

"Appeals shall also be allowed by the district court, and entertained by the Supreme Court, in all civil actions, from such interlocutory judgments, orders or decisions of the district courts, as practically dispose of the merits of the action, so that any further proceeding therein would be only to carry into effect such interlocutory judgment, order or decision. Appeals shall also be allowed by the district court, and entertained by the Supreme Court, from all final orders affecting a substantial right made after entry of final judgment. \* \* \*"

{4} Defendant's appeal is not timely since the merits of the action were not disposed of with this order waiving the defendant's consent to the adoption. The trial court must conclude the matter with a hearing on the final adoption. This as yet has not ben done.

{5} This Court further holds as it has in the past on its own motion that it is without {\*699} jurisdiction in the matter necessary determination and order of the trial court. Pacheco v. Pacheco, 82 N.M. 486, 484 P.2d 328 (1971); Aetna Casualty and Surety Co. v. Miles, 80 N.M. 237, 453 P.2d 757 (1969).

{6} The appeal is dismissed. IT IS SO ORDERED.

WE CONCUR:

J. C. Compton, C.J., Donnan Stephenson, J.