

**STATE of New Mexico, Plaintiff-Appellee,
vs.
Robert LUNA, Defendant-Appellant**

No. 124

COURT OF APPEALS OF NEW MEXICO

1968-NMCA-041, 79 N.M. 307, 442 P.2d 797

June 14, 1968

APPEAL FROM THE DISTRICT COURT OF DONA ANA COUNTY, TRIVIZ, Judge

COUNSEL

R. E. Riordan, Las Cruces, for defendant-appellant.

Boston E. Witt, Atty. Gen., Spencer T. King, Asst. Atty. Gen., Santa Fe, for plaintiff-appellee.

JUDGES

Wood, Judge. Spiess, C. J., and Oman, J., concur.

AUTHOR: WOOD

OPINION

{1} Appealing{*307} from a denial of post conviction relief, defendant contends that he is entitled to credit on his sentence for time spent in presentence confinement. He relies on Sec. 40A-29-25, NMSA 1953 (Supp. 1967), which provides for such a credit.

{2} Defendant's presentence confinement time occurred prior to the effective date of Sec. 40A-29-25, supra. Sec. 40A-29-25 is not to be given retroactive effect. State v. Sedillo (Ct.App.), 79 N.M. 289, 442 P.2d 601, decided May 24, 1968. State v. Padilla, 78 N.M. 702, 437 P.2d 163 (Ct.App.1968); see State v. Sedillo, 79 N.M. 9, 439 P.2d 226 (1968).

{3} The Order denying relief is affirmed.

{4} It is so ordered.