

STATE V. TRAVIS, 1968-NMCA-056, 79 N.M. 420, 444 P.2d 605 (Ct. App. 1968)

**STATE of New Mexico, Plaintiff-Appellee,
vs.
Charles TRAVIS, Defendant-Appellant**

No. 170

COURT OF APPEALS OF NEW MEXICO

1968-NMCA-056, 79 N.M. 420, 444 P.2d 605

August 09, 1968

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, SWOPE, Judge

COUNSEL

Thomas J. Dunn, Nordhaus & Moses, Albuquerque, for defendant-appellant.

Boston E. Witt, Atty. Gen., Gary O'Dowd, Asst. Atty. Gen., Santa Fe, for plaintiff-appellee.

JUDGES

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

AUTHOR: WOOD

OPINION

{1} Defendant{*420} appeals from a denial of post-conviction relief under § 21-1-1(93) N.M.S.A.1953. He asserts that the trial court erred in failing to give him a hearing on one of the claims asserted in his motion. Generally speaking, that claim asserts that the sentence imposed upon him as an habitual offender is constitutionally defective because enhanced sentences have not been imposed upon certain other defendants.

{2} With the exception of dates and the District Attorney referred to, the specific claim made is identical to the claim made in State v. Baldonado, 79 N.M. 175, 441 P.2d 215 (Ct.App.1968). There, we held the claim did not provide a basis for postconviction relief. Baldonado is applicable here; accordingly, the trial court did not err in denying the motion without a hearing.

{3} The order denying relief is affirmed.

{4} It is so ordered.