

STATE V. COLVIN, 1971-NMCA-006, 82 N.M. 287, 480 P.2d 401 (Ct. App. 1971)

**STATE OF NEW MEXICO, Plaintiff-Appellee,
vs.
DAVID LEE COLVIN, Defendant-Appellant**

No. 546

COURT OF APPEALS OF NEW MEXICO

1971-NMCA-006, 82 N.M. 287, 480 P.2d 401

January 22, 1971

APPEAL FROM THE DISTRICT COURT OF LEA COUNTY, NASH, Judge

COUNSEL

JAMES A. MALONEY, Attorney General, THOMAS L. DUNIGAN, Assistant Attorney General, Santa Fe, New Mexico, Attorneys for Appellee.

DEWIE B. LEACH, Hobbs, New Mexico, Attorney for Appellant.

JUDGES

WOOD, Judge, wrote the opinion.

WE CONCUR:

Waldo Spiess C.J., William R. Hendley, J.

AUTHOR: WOOD

OPINION

WOOD, Judge.

{1} Defendant pled guilty. His plea was accepted. He was sentenced. He appeals. He claims his sentence is illegal and his guilty plea should be set aside because of an alleged search of and seizure of items from premises occupied by a codefendant.

{2} We do not go outside the record. There is nothing in the record before us on which to base defendant's allegation. Thus, there is nothing for us to consider. State v. Ford, 81 N.M. 556, 469 P.2d 535 (Ct. App. 1970); State v. Gunthorpe, 81 N.M. 515, 469 P.2d 160 (Ct. App. 1970).

{3} Further, the allegation made in this appeal was never raised to nor ruled on by the trial court. Defendant seeks to raise the alleged search and seizure issue for the first time in this court. He may not do so. State v. Ford, supra: State v. Harrison, 81 N.M. 324, 466 P.2d 890 (Ct. App. 1970).

{4} The judgment and sentence are affirmed.

{5} IT IS SO ORDERED.

WE CONCUR:

Waldo Spiess C.J., William R. Hendley J.