

**STATE V. FAULKENBERRY, 1971-NMCA-061, 82 N.M. 553, 484 P.2d 773 (Ct. App. 1971)**

**STATE OF NEW MEXICO, Plaintiff-Appellee,  
vs.  
JAMES ROBERT FAULKENBERRY, Defendant-Appellant**

No. 610

COURT OF APPEALS OF NEW MEXICO

1971-NMCA-061, 82 N.M. 553, 484 P.2d 773

April 23, 1971

Appeal from the District Court of Chaves County, Reese, Jr., Judge

**COUNSEL**

L. GEORGE SCHUBERT, Hobbs, New Mexico, Attorney for Appellant.

DAVID L. NORVELL, Attorney General, THOMAS L. DUNNIGAN, Ass't. Atty. Gen., Santa Fe, for Appellee.

**JUDGES**

SUTIN, Judge, wrote the opinion.

WE CONCUR:

Waldo Spiess, C.J., Joe W. Wood, J.

**AUTHOR: SUTIN**

**OPINION**

SUTIN, Judge.

{1} Faulkenberry was convicted of unlawfully selling or disposing of marijuana under 54-5-14, N.M.S.A. 1953 (Repl. Vol. 8, pt. 2), and unlawful possession of a dangerous drug, Pentobarbital Sodium, pursuant to 54-6-38(B), N.M.S.A. 1953 (Repl. Vol. 8, pt. 2, Supp. 1969). Faulkenberry appeals.

{2} We affirm.

{3} Faulkenberry claims that (1) marijuana is not a dangerous drug; (2) he is entitled to two separate juries to try him on two separate counts; (3) he is entitled to a new trial to establish ownership of the suitcase and its contents by a witness.

{4} We have reviewed the record and fail to find where these issues were first raised in the district court. They are not, therefore, subject to review.

{5} The judgment and sentence are affirmed.

{6} IT IS SO ORDERED.

WE CONCUR:

Waldo Spiess, C.J., Joe W. Wood, J.