

**STATE V. SHUEMAK, 1971-NMCA-113, 83 N.M. 5, 487 P.2d 915 (Ct. App. 1971)**

**STATE OF NEW MEXICO, Plaintiff-Appellee,  
vs.  
CARL SHUEMAK, Defendant-Appellant**

No. 673

COURT OF APPEALS OF NEW MEXICO

1971-NMCA-113, 83 N.M. 5, 487 P.2d 915

July 23, 1971

Appeal from the District Court of Bernalillo County, MacPherson, Judge

**COUNSEL**

STEPHEN G. DURKOVICH, Albuquerque, New Mexico, Attorney for Appellant.

DAVID L. NORVELL, Attorney General, JAMES B. MULCOCK, Jr., Assistant Attorney General, Santa Fe, New Mexico, Attorneys for Appellee.

**JUDGES**

SUTIN, Judge, wrote the opinion.

WE CONCUR:

Joe W. Wood, C.J., William R. Hendley, J.

**AUTHOR: SUTIN**

**OPINION**

SUTIN, Judge.

{1} Shuemak was convicted of burglary and larceny in the event described in State v. Phillips (Ct. App.) 83 N.M. 5, 487 P.2d 915, decided July 23, 1971. In this case, the neighbor testified that only three men placed the television set back on top of the car after it fell off. The record does not contain any evidence to identify Shuemak as a participant in the burglary and larceny.

{2} The judgment and sentence is reversed. Shuemak is discharged.

{3} IT IS SO ORDERED.

WE CONCUR:

Joe W. Wood, C.J., William R. Hendley, J.