

**STATE V. LANDLEE, 1973-NMCA-112, 85 N.M. 449, 513 P.2d 186 (Ct. App. 1973)**

**STATE OF NEW MEXICO, Plaintiff-Appellee**  
**vs.**  
**ROBERT N. LANDLEE, Defendant-Appellant**

No. 1188

COURT OF APPEALS OF NEW MEXICO

1973-NMCA-112, 85 N.M. 449, 513 P.2d 186

July 25, 1973

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

**COUNSEL**

DAVID L. NORVELL, Attorney General, JAY F. ROSENTHAL, Special Ass't. Atty. Gen.,  
Santa Fe, New Mexico, Attorneys for Appellee.

CHARLES P. REYNOLDS, Albuquerque, New Mexico, Attorney for Appellant.

**JUDGES**

WOOD, Chief Judge, wrote the opinion.

WE CONCUR:

William R. Hendley, J., Lewis R. Sutin, J.

**AUTHOR: WOOD**

**OPINION**

WOOD, Chief Judge.

{1} The appeal involves the evidence of value in a larceny case. Defendant was convicted of larceny of copper wire with a value in excess of \$100.00 but not more than \$2500.00. Section 40A-16-1, N.M.S.A. 1953 (2d Repl. Vol. 6). He claims there was no substantial evidence upon which the jury could conclude that the value of the wire was more than \$100.00. We disagree.

{2} The copper wire stolen was described as 500 MCM, 250 MCM and scrap. Considering only the 500 MCM, a witness testified that if it was considered scrap it was

worth \$30.00; its replacement cost was \$110.00; that its market value was \$170.00 to \$180.00. Questioned as to whether the amount of 500 MCM stolen was usable, the witness replied that it was usable. This is substantial evidence of a value in excess of \$100.00.

{3} Defendant contends the testimony of this witness was "... so inconsistent as to be inadequate to support the conclusion that the total value of the property allegedly taken was over \$100.00...." We have reviewed this testimony; it is not inconsistent. However, even {450} if the testimony was inconsistent, such would not require a ruling that the above testimony was not substantial. Conflicts in evidence are to be resolved by the fact finder and this includes conflicts in the testimony of a witness. State v. McKay, 79 N.M. 797, 450 P.2d 435 (Ct. App. 1969).

{4} The evidence of value being substantial, the judgment and sentence is affirmed. See State v. Phillips, 83 N.M. 5, 487 P.2d 915 (Ct. App. 1971); State v. Parker, 80 N.M. 551, 458 P.2d 803 (Ct. App. 1969).

{5} IT IS SO ORDERED.

WE CONCUR:

William R. Hendley, J., Lewis R. Sutin, J.