

BURLESON V. COX, 1965-NMSC-038, 75 N.M. 105, 401 P.2d 95 (S. Ct. 1965)

JAMES C. BURLESON, Petitioner,
vs.
HAROLD A. COX, Warden of the New Mexico State Penitentiary,
Respondent

No. 7853

SUPREME COURT OF NEW MEXICO

1965-NMSC-038, 75 N.M. 105, 401 P.2d 95

April 12, 1965

Original Writ of Habeas Corpus

COUNSEL

EDWARD T. JOHNSON, Santa Fe, New Mexico, Attorney for Petitioner.

HARRY S. CONNELLY, JR., Special Assistant Attorney General, Santa Fe, New Mexico, Attorney for Respondent.

JUDGES

WE CONCUR:

DAVID CHAVEZ, JR., J., M. E. NOBLE, J., IRWIN S. MOISE, J.

AUTHOR: PER CURIAM

OPINION

PER CURIAM.

{1} Petitioner's sentence in Cause No. 4409, Curry County, was increased to life imprisonment because of a determination by a jury in Cause No. 4411 that he had previously been convicted of five felonies within the meaning of §§ 41-16-1 to 4 N.M.S.A., 1953. He asserts that the increased punishment is void because the determination that he had been previously convicted of other offenses was made in a separately numbered case rather than by supplemental proceedings in Cause No. 4409. Our opinion filed this day in Lott v. Cox, 401 P.2d 93, is controlling and requires denial of the relief sought and the discharge of the Writ of Habeas Corpus heretofore

issued in this cause. The petitioner will be remanded to the custody of the Warden of the New Mexico State Penitentiary.

{2} IT IS SO ORDERED.

WE CONCUR:

DAVID CHAVEZ, JR., J, M. E. NOBLE, IRWIN S. MOISE, J.