

CONNER V. FLASKA, 1927-NMSC-005, 32 N.M. 162, 252 P. 1001 (S. Ct. 1927)

**CONNER
vs.
FLASKA et ux**

No. 3026

SUPREME COURT OF NEW MEXICO

1927-NMSC-005, 32 N.M. 162, 252 P. 1001

January 07, 1927

Appeal from District Court, Bernalillo County; Ryan, Judge.

Action by C. H. Conner against John Flaska and wife. From a judgment for defendants, plaintiff appeals.

SYLLABUS

SYLLABUS BY THE COURT

Section 4467, Code 1915, gives a party litigant the right to address the jury through counsel, and a denial of that right by the trial court is reversible error.

COUNSEL

T. J. Mabry, of Albuquerque, for appellant.

George C. Taylor, of Albuquerque, for appellees.

JUDGES

Parker, C. J., and Bickley and Watson, JJ., concur.

OPINION

{*162} {1} OPINION OF THE COURT Appellant, plaintiff below, sued to recover \$ 75, a balance for professional services {*163} rendered. The jury found against him, and judgment followed. He complains here that, over his objection and exception, the court refused to allow his counsel to address the jury. This seems to have been the denial of a right which a party litigant enjoys under Code 1915, § 4467, which reads:

"Every plaintiff or defendant shall be entitled to be heard before the jury by an attorney, and if there be but one plaintiff or defendant, by two, and when there are several defendants having the same or separate defenses and appearing by the same or different attorneys, the court shall, before argument, arrange their order."

See Territory v. Sherron, 11 N.M. 515, 70 P. 562.

{2} Because of this error, the judgment must be reversed and the cause remanded for a new trial; and it is so ordered.