

**HANNAH V. DISTRICT COURT OF FOURTH JUDICIAL DIST., 1928-NMSC-053, 33  
N.M. 533, 271 P. 469 (S. Ct. 1928)**

**HANNAH  
vs.  
DISTRICT COURT OF FOURTH JUDICIAL DIST. IN AND FOR  
GUADALUPE COUNTY et al.**

No. 3396

SUPREME COURT OF NEW MEXICO

1928-NMSC-053, 33 N.M. 533, 271 P. 469

October 20, 1928

Certiorari proceeding in Supreme Court by J. D. Hannah, County Chairman of the Democratic Central Committee of Guadalupe County, directed to the District Court of the Fourth Judicial District of the State of New Mexico, sitting in and for the County of Guadalupe, and Louis E. Armijo, Judge of said District, to review judgment of said Court.

**SYLLABUS**

1. District court acted without jurisdiction in entertaining demurrer to petition to purge registration list of county, under Laws 1927, c. 41; it being court's duty to hear proofs and find facts on allegations of petition.
2. Laws 1927, c. 41, providing for petition to purge county registration list, **held** to sufficiently provide for notice and hearing, as against contention that it is unconstitutional, because lacking provisions for notice and opportunity to be heard by voters.

**COUNSEL**

C. L. Collins, of Las Vegas, J. O. Seth, of Santa Fe, and Summers Burkhart, of Albuquerque, for petitioner.

F. Faircloth, of Santa Rosa, and Carl H. Gilbert, of Santa Fe, for respondents.

**JUDGES**

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

**AUTHOR: BICKLEY**

## OPINION

{\*534} {1} OPINION OF THE COURT This is a writ of certiorari, directed to the district court of Guadalupe county, to review a judgment rendered upon a petition to purge the registration list of said county under the provisions of chapter 41, Laws of 1927. The district court entertained a demurrer to the petition, sustained the same, and rendered a final judgment dismissing the petition. The writ of certiorari was thereupon issued by this court and due return made thereto. A motion to dismiss the writ was interposed, and denied by this court. Thereupon we have determined that the district court acted without jurisdiction in entertaining the demurrer; it being unknown to the provisions of the act, and it being the duty of the district court to hear the proofs and find the facts upon the allegations of the petition.

{2} Counsel argued that the provisions of the act are unconstitutional, because of a lack of a provision therein for notice and opportunity to be heard by the voters. We hold that there is sufficient provision for notice and hearing contained in the act. Therefore the judgment, in so far as it sustains the demurrer to the petition, is reversed, and the cause remanded. In view of the short time to elapse before the date of the ensuing election, we hereby suspend the rules, if any, providing for rehearing, and {\*535} direct that the district court overrule the demurrer and proceed forthwith, in accordance with chapter 41, Laws of 1927, and particularly section 223 thereof.

{3} And it is so ordered.