

In re ROMERO'S ESTATE. ESTRADA

vs.

ROMERO

No. 3961

SUPREME COURT OF NEW MEXICO

1934-NMSC-002, 38 N.M. 210, 30 P.2d 718

January 09, 1934

Appeal from District Court, Socorro County; Owen, Judge.

In the matter of the estate of Ramon N. Romero, deceased. From a judgment for Lupe Gallegos de Romero, Electo Estrada, administrator of the estate, appeals. On appellant's motion to strike from the transcript matters of record included on appellee's supplemental praecipe.

COUNSEL

William J. Eaton, of Socorro, for appellant.

JUDGES

Watson, Chief Justice. Sadler, Hudspeth, Bickley, and Zinn, JJ., concur.

AUTHOR: WATSON

OPINION

{*210} {1} Appellant has moved to strike from the filed transcript numerous matters of record which were included on a supplemental praecipe by appellee.

{2} The grounds of the motion are that appellant, desiring to have a single question reviewed, set it forth in his praecipe, and called for such portions of the record as he deemed necessary to such review; that the additional portions of the record called for by appellee are unnecessary and immaterial to the question; that appellee has taken no cross-appeal nor stated any additional questions for review; that appellant is prejudiced (1) by delay in completing the record; (2) by being compelled to pay the added expense thereof, and (3) because the unnecessary record will cloud and confuse the issue.

{3} We find no merit in the motion. The first two matters of prejudice have already occurred. The second may be relieved against at the proper time in the taxation of costs. N.M. App. Proc. Rule XI, § 4. The third is prospective, not alarming, and can be determined **{*211}** more readily when the cause shall be before us on the merits.

{4} The motion is overruled.