

In re ROMERO'S ESTATE. ESTRADA

**vs.
ROMERO**

No. 3961

SUPREME COURT OF NEW MEXICO

1934-NMSC-032, 38 N.M. 308, 31 P.2d 999

April 16, 1934

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

In the matter of the estate of Ramon N. Romero, deceased. From an adverse ruling, Electo Estrada, administrator, opposed by Lupe Gallegos de Romero, appeals. On motion to dismiss the appeal.

See, also, 38 N.M. 210, 30 P.(2d) 718.

COUNSEL

William J. Eaton, of Socorro, for appellant.

Charles H. Fowler, of Socorro, for appellee.

JUDGES

Bickley, Justice. Watson, C. J., and Sadler, Hudspeth, and Zinn, JJ., concur.

AUTHOR: BICKLEY

OPINION

{*309} {1} Appellee requested the district court to try de novo certain issues upon which the probate court had rendered decisions within ninety days prior to the filing of petition for removal of the administration of the estate. Appellant resisted the request on the ground that the jurisdiction of the district court to enter upon such trial de novo was not invoked by an "interested person" as provided by Comp. St. 1929, § 34-423.

{2} From an adverse ruling, appellant has taken a short appeal, claiming the right thereto under section 2 of rule II, Rules of Appellate Procedure, asserting that the decision is one which practically disposes of the merits of the action. Appellee moves to

dismiss the appeal. The motion is sustained on the authority of *Winans v. Bryan*, 33 N.M. 532, 271 P. 469.

{3} Whether appellant had a remedy by prohibition or otherwise we do not decide.