

**PIERCE CO. V. RICHARDSON, 1908-NMSC-003, 14 N.M. 340, 93 P. 717 R. H. (S. Ct. 1908)**

**R. H. PIERCE COMPANY, Defendant in Error,  
vs.  
GEORGE RICHARDSON and J. C. CRAVENS, Partners as RICHARDSON  
& CO., Plaintiffs in Error**

No. 1171

SUPREME COURT OF NEW MEXICO

1908-NMSC-003, 14 N.M. 340, 93 P. 717

January 13, 1908

Error to the District Court for Otero County, before E. A. Mann, Associate Justice.

### **SYLLABUS**

#### **SYLLABUS (BY THE COURT)**

When a writ of error is improperly directed, and the defendant in error is cited to appear before this court under the name of R. H. Pierce, and not under the name of R. H. Pierce Company, who was plaintiff in the court below, the case will be dismissed on the ground that the real defendant in error has not been cited to appear before this court, and is not before us.

### **COUNSEL**

J. E. Wharton for Plaintiff in Error.

Byron Sherry, for Defendant in Error.

### **JUDGES**

Mills, C. J.

**AUTHOR: MILLS**

### **OPINION**

{\*341} OPINION OF THE COURT.

{1} The transcript of record in this case contains all of the imperfections which are referred to in the case of Richardson, et al. v. R. H. Pierce, decided at this term of court, and in addition thereto no writ of error seems to have ever been sued out in the Supreme Court, as the writ of error attached to the transcript in this case is made out in the name of R. H. Pierce and not R. H. Pierce Company, a corporation, who was the plaintiff in the court below, and therefore as the defendant in error is not before us, we will dismiss this case.

{2} We would ordinarily dislike to take this course, based upon what is apparently only a clerical error, but in the case of Richardson, et al. v. R. H. Pierce, supra, there is a stipulation to the effect that the evidence in that case shall be the evidence in this, and, as with that evidence before us we would have to affirm the judgment of the Trial Court in this case, we do not think that we are doing the plaintiff in error any injury and the case will therefore be dismissed; and, It Is So Ordered.