

STATE EX REL. WOODS V. MONTOYA, 1918-NMSC-014, 23 N.M. 599, 170 P. 60 (S. Ct. 1918)

**STATE ex rel. WOODS et al.
vs.
MONTOYA, Co. Treas.**

No. 2036.

SUPREME COURT OF NEW MEXICO

1918-NMSC-014, 23 N.M. 599, 170 P. 60

January 14, 1918, Decided

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

Mandamus cases by the State of New Mexico, on the relation of J. B. Woods and the Board of County Commissioners of Socorro County, against Max M. Montoya, Treasurer of Socorro County, N.M. Dismissed.

SYLLABUS

SYLLABUS BY THE COURT.

An appeal involving a question, which, by reason of the changed status of the parties, has become a moot question, will be dismissed.

COUNSEL

William J. Eaton, of Socorro, for appellant. Nicholas & Nicholas, of Socorro, for appellee.

JUDGES

PARKER, J. HANNA, C. J., and ROBERTS, J., concur.

AUTHOR: PARKER

OPINION

{*600} {1} OPINION OF THE COURT. PARKER, J. Two cases are involved in this proceeding. The first is one involving the right of the county road board of Socorro county to have certain moneys derived from the federal government as proceeds from the national forest reserve placed in the county road fund of the county, in which the

relator obtained a peremptory mandamus. The second was a case in mandamus against the county treasurer of Socorro county to compel the payment of a warrant drawn on him by the county commissioners in a small sum for money due the relator for road work. The treasurer defended on two or more grounds, and the mandamus was denied by the court.

{2} Since the judgment in these cases, which were really contests between the county road board and the county commissioners for the control of these funds, chapter 38, Laws 1917, has been enacted, which has abolished all the county road boards, and has intrusted all of the road and bridge business of the counties to the county commissioners. It has become, therefore, a moot question as to the respective rights and powers of these two boards at the time these controversies arose, the county road board having ceased to exist.

{3} For this reason, concurred in by counsel on both sides, the appeal will be dismissed; and it is so ordered.

HANNA, C. J., and ROBERTS, J., concur.