

STATE V. JARAMILLO, 1919-NMSC-013, 25 N.M. 228, 180 P. 286 (S. Ct. 1919)

**STATE
vs.
JARAMILLO.**

No. 2239

SUPREME COURT OF NEW MEXICO

1919-NMSC-013, 25 N.M. 228, 180 P. 286

April 07, 1919, Decided

Appeal from District Court, Bernalillo County; Raynolds, Judge.

Emiterio Jaramillo was convicted of larceny, and he appeals. Affirmed.

SYLLABUS

SYLLABUS BY THE COURT.

1. Where there is substantial evidence supporting the verdict, the Supreme Court will not undertake to weigh the evidence.
2. Where, under a larceny statute, value of the thing or article stolen is not made material, it need not be alleged, and, if averred, it need not be proved.

COUNSEL

MODESTO C. ORTIZ, of Albuquerque, for appellant.

HARRY L. PATTON, Atty. Gen., and GEORGE R. CRAIG, of Albuquerque, for the State.

JUDGES

ROBERTS, J. PARKER, C. J., concurs. RAYNOLDS, J., having tried the case in the court below, did not participate in this opinion.

AUTHOR: ROBERTS

OPINION

{*228} {1} OPINION OF THE COURT. ROBERTS, J. Appellant was indicted, tried, and convicted in the District Court of Bernalillo County {*229} upon the charge of larceny of one head of neat cattle of the property of Prajedes Jaramillo.

{2} Two propositions are relied upon for a reversal: First, that the evidence was insufficient to warrant a verdict of guilty, in that the corpus delicti was not established, nor was the ownership of the animal proved beyond a reasonable doubt. There is no merit, however, in either contention. The proof, while circumstantial, was clearly sufficient, if believed by the jury, to establish the guilt of the appellant beyond a reasonable doubt. Where there is substantial evidence supporting the verdict, the Supreme Court will not undertake to weigh the evidence. *State v. Lucero*, 17 N.M. 484, 131 P. 491.

{3} It is next urged that there was no proof of the value of the animal. This was not required. In *State v. Lucero*, supra, we said:

"Where, under a larceny statute, value of the thing or article stolen is not made material, it need not be alleged, and, if averred, it need not be proved."

{4} Finding no error in the record, the judgment will be affirmed; and it is so ordered.

PARKER, C. J., concurs.

RAYNOLDS, J., having tried the case in the court below, did not participate in this opinion.