

STATE V. BYRD, 1969-NMSC-112, 80 N.M. 517, 458 P.2d 592 (S. Ct. 1969)

**STATE OF NEW MEXICO, Plaintiff-Appellee,
vs.
ROBERT BYRD, Defendant-Appellant**

No. 8773

SUPREME COURT OF NEW MEXICO

1969-NMSC-112, 80 N.M. 517, 458 P.2d 592

September 08, 1969

APPEAL FROM THE DISTRICT COURT OF CHAVES COUNTY, REESE, JR., Judge

COUNSEL

JAMES A. MALONEY, Attorney General, OLIVER H. MILES, Assistant Attorney General, Santa Fe, New Mexico, Attorneys for Appellee.

ROBERT E. SABIN, Roswell, New Mexico, Attorney for Appellant.

JUDGES

MOISE, Justice, wrote the opinion.

WE CONCUR:

M. E. Noble, C.J., Paul Tackett, J.

AUTHOR: MOISE

OPINION

MOISE, Justice.

{1} Defendant-Appellant seeks review herein of the denial by the trial court of his petition filed pursuant to Rule 93 (§ 21-1-1(93), N.M.S.A. 1953).

{2} The only question presented for our consideration is whether the evidence is substantial to support the court's finding that defendant's guilty plea was entered knowingly and voluntarily. We have examined the record and conclude that the findings are supported by the evidence. Under our decisions, findings so supported are

conclusive on appeal. *Smith v. State*, 79 N.M. 450, 444 P.2d 961 (1968); *State v. Simien*, 78 N.M. 709, 437 P.2d 708 (1968).

{3} The judgment should be affirmed. IT IS SO ORDERED.

WE CONCUR:

M. E. Noble, C.J., Paul Tackett, J.