

STATE V. DOWNING, 122 N.M. 279, 923 P.2d 1164 (S. Ct. 1996)

**STATE OF NEW MEXICO, Plaintiff-Respondent,
vs.
CURTIS DOWNING, Defendant-Petitioner.**

NO. 23,854

SUPREME COURT OF NEW MEXICO

122 N.M. 279, 923 P.2d 1164

October 01, 1996, Decided

OPINION

ORDER

WHEREAS, this matter came on for consideration by the Court upon petition for writ of certiorari to the New Mexico Court of Appeals, and the Court having considered said petition and being sufficiently advised;

NOW, THEREFORE, IT IS ORDERED that the petition hereby is GRANTED on the following issue:

Did the Court of Appeals err (1) in rejecting Downing's "inherent power of the Court" argument and (2) in determining that the State failed to receive adequate notice that a dismissal of Count I with prejudice could possibly be entered?

IT IS FURTHER ORDERED that a writ of certiorari shall issue to the New Mexico Court of Appeals;

IT IS FURTHER ORDERED that this matter is placed on an expedited calendar and petitioner shall file his brief in chief on or before **October 15, 1996**, with respondent's answer brief to be filed on or before **October 25, 1996**, and petitioner's reply brief, if any, to be filed on or before **October 30, 1996** ; and

IT IS FURTHER ORDERED that this matter shall be placed on the November 1996 calendar and shall be submitted on the briefs only.