

**TERRITORY OF NEW MEXICO, Appellee,
vs.
CHAVEZ Y. CHAVEZ, Appellant**

No. 737

SUPREME COURT OF NEW MEXICO

1897-NMSC-029, 9 N.M. 282, 50 P. 324

October 02, 1897

Appeal, from a judgment of the Fourth Judicial District Court, San Miguel County, convicting defendant of murder in the first degree.

COUNSEL

Veeder & Veeder for appellant.

Albert B. Fall, solicitor general, and W. H. Pope, assistant, for the territory.

Errors complained of and not presented to the court below, by motion for new trial, will not be considered by the appellate court. Padilla v. Territory, 8 N.M. 562, and cases cited.

JUDGES

Bantz, J. Collier, Hamilton and Laughlin, JJ., concur.

AUTHOR: BANTZ

OPINION

{*282} {1} This cause was before this court on former appeal at last term, and was then reversed and remanded. 8 N.M. 528, 45 P. 1107. Upon a new trial the defendant was again convicted of murder in the first degree, and sentenced to death, and the cause is again brought here on appeal.

{2} Fifty-six errors are assigned by defendant relating to things done during the progress of the trial. We can not, however, pass upon these alleged errors, as there is no motion for a new trial in the bill of exceptions. It is a fundamental rule that such errors must be brought to the attention of the court below by a motion for a new trial, an exception must be saved to the overruling of that motion, and the motion must be made

{*283} matter of record by a bill of exceptions. Padilla v. Territory, 8 N.M. 562, 45 P. 1120. There is no error in the record proper. For these reasons the judgment must be affirmed.