

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN JACOB LIDSTER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 57137

**FILED**

**JUN 08 2011**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of one count of felony driving while under the influence. Second Judicial District Court, Washoe County; Jerome Polaha, Judge.

Appellant John Jacob Lidster contends that the district court erred by denying his pretrial motion to dismiss the indictment.<sup>1</sup> Lidster claims that a prosecutor who voluntarily dismisses a criminal complaint under NRS 174.085(5) must initiate any subsequent prosecution of the same matter by filing a new criminal complaint pursuant to NRS 174.085(6). Lidster asserts that the grand jury indictment was barred by NRS 178.562(1) because the State did not comply with NRS 174.085(6). And Lidster argues that the language of NRS 174.085(6) is ambiguous because it lends itself to more than one reasonable interpretation. Thus, Lidster's contention presents a question of statutory construction.

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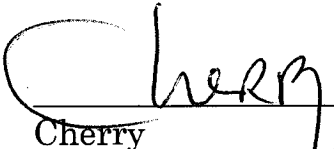
<sup>1</sup>This contention was preserved for appeal pursuant to NRS 174.035(3).

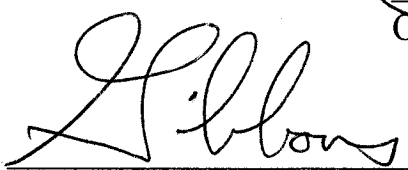
We review questions of statutory interpretation de novo. Firestone v. State, 120 Nev. 13, 16, 83 P.3d 279, 281 (2004). Generally, statutes are given their plain meaning, construed as a whole, and read in a manner that makes the words and phrases essential and the provisions consequential. Mangarella v. State, 117 Nev. 130, 133, 17 P.3d 989, 991 (2001). We interpret statutes within a scheme and provisions within a statute harmoniously with one another in accordance with the general purpose of those statutes and do not construe them in a manner that would produce unreasonable or absurd results. Washington v. State, 117 Nev. 735, 739, 30 P.3d 1134, 1136 (2001). A statute is ambiguous when its language “lends itself to two or more reasonable interpretations.” State v. Catanio, 120 Nev. 1030, 1033, 102 P.3d 588, 590 (2004). If the statute is ambiguous, we will look beyond the statutory language to determine the Legislature’s intent. Zabeti v. State, 120 Nev. 530, 534, 96 P.3d 773, 775 (2004).

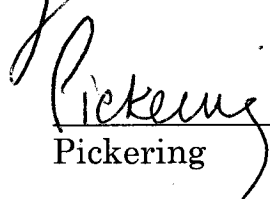
NRS 174.085(6) provides in pertinent part that “[i]f a prosecuting attorney files a subsequent complaint after a complaint concerning the same matter has been filed and dismissed against the defendant: (a) The case must be assigned to the same judge . . . and (b) A court shall not issue a warrant for the arrest . . . .” We conclude that this statute is an unambiguous conditional provision that identifies the consequences of renewing a prosecution by way of a criminal complaint; it does not limit the State’s options for renewing the prosecution. Here, because the State’s complaint was dismissed pursuant to NRS 174.085(5) and not NRS 178.554 or 178.556, the State was not barred by NRS 178.562(1) from pursuing a grand jury indictment. Accordingly, the

district court properly denied Lidster's motion to dismiss the indictment,  
and we

ORDER the judgment of conviction AFFIRMED.

  
Cherry, J.

  
Gibbons, J.

  
Pickering, J.

cc: Hon. Jerome Polaha, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk