


IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,  
Appellant,  
vs.  
JOSEPH EMANUEL WEBER,  
Respondent.

No. 85905

**FILED**

NOV 17 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY:   
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

This is an appeal from a district court order granting respondent's motion to dismiss a criminal complaint. Second Judicial District Court, Washoe County; Egan K. Walker, Judge. Reviewing for an abuse of discretion, *Morgan v. State*, 134 Nev. 200, 205, 416 P.3d 212, 220 (2018), we reverse and remand.<sup>1</sup>

The State argues that the district court abused its discretion in granting respondent Joseph Weber's motion to dismiss the criminal complaint based on a due process violation involving a six-month delay in transporting Weber to a facility for competency restoration treatment. We recently considered a similar challenge by the State to an almost identical district court order in *State v. Gonzalez*, 139 Nev., Adv. Op. 33, 535 P.3d 248 (2023).

In *Gonzalez*, we concluded that the district court abused its discretion in two respects. First, "without apportioning blame to the State or pointing to any prejudice [the defendant] suffered as to [the] ability to receive a fair adjudication, the district court summarily ruled that the due

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<sup>1</sup>Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted.

process violation in and of itself constituted aggravated circumstances warranting dismissal” and “thus neglected to apply the standards demanded by our precedent.” *Gonzalez*, 139 Nev., Adv. Op. 33, 535 P.3d at 252-53. Second, even if aggravated circumstances favored dismissal, the district court then neglected to balance the deterrent objectives of dismissal against society’s interest in prosecuting criminal acts, instead balancing the defendant’s due process rights against society’s interest in prosecuting the charged offense. *Id.* at 253.

The district court abused its discretion in the same two respects here. The district court treated the due process violation as aggravated circumstances warranting dismissal without apportioning any blame to the State or identifying any prejudice to Weber’s ability to receive a fair adjudication and then engaged in the wrong inquiry by balancing the State’s interest in prosecuting Weber for the charged offenses against Weber’s due process rights.<sup>2</sup> Based on this abuse of discretion, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

Stiglich, C.J.  
Stiglich

Lee, J.  
Lee

Parraguirre, J.  
Parraguirre

<sup>2</sup>Weber suggests that the district court was within its discretion to dismiss the criminal complaint pursuant to NRS 178.425(5). The district court, however, did not dismiss the complaint based on that statute or make the findings required to do so. We therefore decline to affirm the district court’s order based on NRS 178.425(5).

cc: Hon. Egan K. Walker, District Judge  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe County Public Defender  
Washoe District Court Clerk