

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
TERRENCE MALIK WEBB,
Respondent.

No. 86697-COA

FILED

MAR 18 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

No. 86700-COA

THE STATE OF NEVADA,
Appellant,
vs.
TERRENCE MALIK WEBB,
Respondent.

No. 86701-COA

THE STATE OF NEVADA,
Appellant,
vs.
TERRENCE MALIK WEBB,
Respondent.

ORDER OF REVERSAL AND REMAND

These are consolidated appeals from an order of the district court granting Terrence Malik Webb's motion to dismiss the criminal complaints. 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.

The State argues that the district court abused its discretion in granting Webb's motions to dismiss the criminal complaints based on a due process violation involving a 130-day delay in transporting Webb to a facility for competency restoration treatment. The Nevada Supreme Court 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*, the supreme court 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 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 Webb's ability to receive a fair adjudication and then engaged in the wrong inquiry by balancing the State's

interest in prosecuting Webb for the charged offenses against Webb's due process rights. 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.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

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