

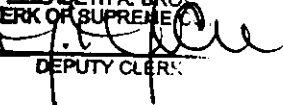
IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
JUSTIN CHANSE RIDER,
Respondent.

No. 88344

FILED

MAY 19 2025

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

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court order dismissing an information in a criminal proceeding. Fifth Judicial District Court, Esmeralda County; Kimberly A. Wanker, Judge.

In 2016, the State charged respondent Justin Chanse Rider with two counts of lewdness with a child under 14 years of age; two counts of sexual assault against a minor under 16 years of age; abuse, neglect, or endangerment of a child; incest; and promotion of a sexual performance of a minor. A jury trial resulted in a hung jury and a mistrial in 2018. Approximately six years later, Rider still had not faced another trial. The significant delay stemmed largely from the State's difficulty in securing the attendance of the victim and other witnesses from Texas. Despite numerous hearings in Nevada and Texas courts and considerable expenditure of court resources, the State could not assure the district court that the witnesses would attend a second trial. Rider eventually moved to dismiss based on violations of his rights to compulsory process and confrontation. The district court granted the motion, summarily dismissing "for lack of prosecution."

We review an order dismissing a criminal proceeding for an abuse of discretion. *State v. Gonzalez*, 139 Nev., Adv. Op. 33, 535 P.3d 248, 251 (2023). A dismissal that is arbitrary or capricious or exceeds the bounds of law constitutes an abuse of discretion. *Id.*

The State focuses on the summary nature of the district court's order, noting that the court failed to make any findings that support dismissal. An order dismissing a case should be supported by specific factual findings and conclusions of law that allow for meaningful appellate review. *See Sena v. State*, 138 Nev. 310, 333, 510 P.3d 731, 753 (2022) (recognizing that an action may be dismissed upon a finding of litigation abuses); *Sparks v. Bare*, 132 Nev. 426, 433, 376 P.3d 864, 868 (2016) (recognizing that the power to dismiss an appeal for a failure to prosecute "should be exercised circumspectly . . . with restraint and discretion" (internal quotation marks omitted)); *State v. Babayan*, 106 Nev. 155, 171, 787 P.2d 805, 818 (1990) (concluding that dismissal with prejudice requires finding aggravated circumstances and a balancing test); *id.* at 171-72, 787 P.2d at 818 (concluding that dismissal without prejudice may rest on less severe findings of negligence by the prosecution). While we understand the district court's frustration with the State's lack of diligence and the unfairness of Rider's treatment, we agree with the State that the district court's order falls short.

Rider argues that we nonetheless should affirm based on violations of his constitutional rights to confrontation, compulsory process, and a speedy trial. We are not convinced that these arguments save the district court's order.

First, Rider's confrontation challenge depends on a retrial where the evidence against him is presented through transcripts from the

first trial rather than testimony in person subject to cross-examination. This speculative injury does not establish actual harm suitable for judicial review. *See Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 887, 141 P.3d 1224, 1231 (2006).

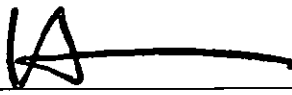
Second, Rider misconstrues the right to compulsory process. That right ensures that a criminal defendant may “compel the production of witnesses in his or her own behalf.” *Bell v. State*, 110 Nev. 1210, 1213, 885 P.2d 1311, 1313 (1994); *see also Wilson v. State*, 121 Nev. 345, 368, 114 P.3d 285, 300 (2005) (explaining that a compulsory process violation requires a showing that witnesses were material to the defense and prejudiced the defense in their absence). The State’s difficulties in securing its witnesses do not establish a violation of Rider’s right to compulsory process.


And third, Rider did not raise a speedy trial claim in the motion filed in the district court. We therefore cannot address it at this time. *See Davis v. State*, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991) (holding that this court need not consider arguments raised on appeal that were not presented to the district court in the first instance), *overruled on other grounds by Means v. State*, 120 Nev. 1001, 103 P.3d 25 (2004).

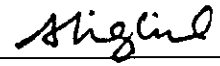
The district court failed to identify authority supporting its ruling, made no factual findings, did not indicate whether the dismissal was with prejudice, and summarily concluded that dismissal was warranted “for lack of prosecution.” On this basis, we conclude that the district court “exceeded the bounds of the law” and that the court therefore abused its discretion. *See Gonzalez*, 139 Nev., Adv. Op. 33, 535 P.3d at 252-53 (concluding the district court exceeded the bounds of law and thus abused its discretion when it dismissed a charging instrument on the basis of a

summary determination of a due process violation without applying the relevant precedent or addressing the requisite "highly fact-bound inquiries"). Accordingly, 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.
Herndon


_____, J.
Parraguirre


_____, J.
Stiglich

cc: Hon. Kimberly A. Wanker, District Judge
Attorney General/Carson City
Esmeralda County District Attorney
Nevada State Public Defender's Office
Esmeralda County Clerk