


IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
SHAUN MICHAEL DIAZ,
Respondent.

No. 77114

FILED

NOV 22 2019

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 pretrial petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

Before this court is a case involving the Interstate Agreement on Detainers (IAD), codified at NRS 178.620, and concerning whether the State of Nevada failed to bring respondent to trial within the time period specified under the IAD. Having considered the parties' arguments and the record, we conclude that the district court erred as a matter of law in granting respondent's pretrial petition for writ of habeas corpus, and therefore, we reverse the district court's order and remand for proceedings consistent with this order.

The district court incorrectly held that the IAD was violated. There must be a detainer lodged against a prisoner before Article III's provisions under the IAD can be invoked. NRS 178.620, art. III(a); *Theis v. State*, 117 Nev. 744, 746, 30 P.3d 1140, 1141 (2001) ("[A] detainer must be a written request filed by a criminal justice agency with the particular institution in which a prisoner is incarcerated, specifically asking that the prisoner be held for the agency or that the agency be advised when the prisoner's release is imminent."). The State did not lodge a detainer against respondent until *after* he attempted to resolve his case. Because there was

no detainer lodged against respondent when he attempted to resolve his case, the IAD is inapplicable. *Id.* Since the IAD was inapplicable, the district court erred in granting respondent's petition and dismissing all charges brought against respondent. Accordingly, we

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

Hardesty, J.
Hardesty

Stiglich, J.
Stiglich

Silver, J.
Silver

cc: Attorney General/Carson City
Clark County District Attorney
Sanft Law, P.C.
Eighth District Court Clerk