

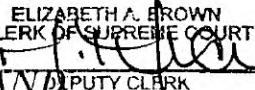
IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,  
Appellant,  
vs.  
MATTHEW ADAM BURNS,  
Respondent.

No. 85150

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 case. Second Judicial District Court, Washoe County; Lynne K. Jones, 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 Matthew Burns' motion to dismiss the criminal case against him based on a due process violation involving a two-month delay in transporting Burns to a facility for competency restoration treatment. We recently considered a similar challenge by the State to a similar district court order in *State v. Gonzalez*, 139 Nev., Adv. Op. 33, 535 P.3d 248 (2023).

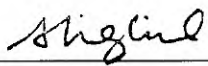
In *Gonzalez*, we concluded that the district court abused its discretion in two respects. First, "without apportioning blame to the State or pointing to any prejudice [the defendant] suffered as to [the] ability to receive a fair adjudication, the district court summarily ruled that the due process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

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

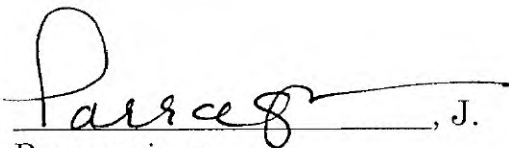
warranting dismissal” and “thus neglected to apply the standards demanded by our precedent.” *Gonzalez*, 139 Nev., Adv. Op. 33, 535 P.3d at 252-53. Second, even if aggravated circumstances favored dismissal, the district court then neglected to balance the deterrent objectives of dismissal against society’s 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 Burns’ ability to receive a fair adjudication and then engaged in the wrong inquiry by balancing the State’s interest in prosecuting Burns for the charged offense against Burns’ 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.

  
\_\_\_\_\_, C.J.  
Stiglich

  
\_\_\_\_\_, J.  
Lee

  
\_\_\_\_\_, J.  
Parraguirre

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<sup>2</sup>Burns 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. Lynne K. Jones, District Judge  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe County Public Defender  
Washoe District Court Clerk