

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
VICKI CARSON,
Respondent.

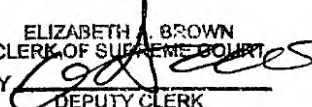
No. 86749-COA

THE STATE OF NEVADA,
Appellant,
vs.
VICKI CARSON,
Respondent.

No. 86751-COA

FILED

MAR 28 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

These are consolidated appeals from an order of the district court granting Vicki Carson's motion to dismiss the 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.

The State argues that the district court abused its discretion in granting Carson's motion to dismiss the criminal complaint based on a due process violation involving a 134-day delay in transporting Carson 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.” *Id.* 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 Carson’s ability to receive a fair adjudication and then engaged in the wrong inquiry by balancing the State’s interest in prosecuting Carson for the charged offenses against Carson’s due process rights. Based on this abuse of discretion, we

ORDER the judgments of the district court REVERSED AND REMAND these matters 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 Alternate Public Defender
Washoe District Court Clerk