

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RICHARD JAMES CELANO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 87125-COA

**FILED**

OCT 04 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

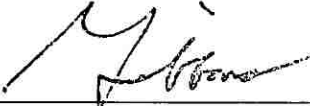
*ORDER OF REVERSAL AND REMAND*


Richard James Celano appeals from a judgment of conviction, entered pursuant to a jury verdict, of eluding a public officer. Sixth Judicial District Court, Humboldt County; Michael Montero, Judge.

Celano argues that the district court abused its discretion by denying his motion to represent himself. Criminal defendants have “the right to self-representation under the Sixth Amendment of the United States Constitution and the Nevada Constitution.” *Guerrina v. State*, 134 Nev. 338, 341, 419 P.3d 705, 709 (2018) (quoting *Vanisi v. State*, 117 Nev. 330, 337, 22 P.3d 1164, 1169 (2001)). However, a district court can “deny a request for self-representation if the request is untimely, equivocal, or made solely for purposes of delay or if the defendant is disruptive.” *Id.* (quotation marks omitted). “If the request can be granted without need for a continuance, the request should be deemed timely.” *Id.* (internal quotation marks omitted). “The improper denial of a defendant’s right to self-representation at trial is a structural error that is not subject to harmless error analysis.” *Sims v. State*, 139 Nev., Adv. Op. 55, 541 P.3d 130, 134 (Ct. App. 2023).

Two days before trial, Celano filed a motion to represent himself. At a hearing on that motion, Celano stated he was ready to represent himself at trial the next day and did not require a continuance. After taking some time to review *Faretta v. California*, 422 U.S. 806 (1975), the district court denied the motion as untimely. The denial of the motion as untimely was an abuse of discretion and constituted error because Celano was clear that he could proceed without a continuance. *Cf. Guerrina*, 134 Nev. at 342, 419 P.3d at 710 (concluding “the district court had discretion to deny” the defendant’s motion to represent himself at trial where the defendant insisted a continuance would be necessary if his motion was granted); *see also Lyons v. State*, 106 Nev. 438, 445-46, 796 P.2d 210, 214 (1990) (creating a two-part test to determine whether a motion to self-represent is untimely). Because the improper denial of Celano’s request was structural error, *see Sims*, 139 Nev., Adv. Op. 55, 541 P.3d at 134, we

ORDER the judgment of conviction REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.<sup>1</sup>

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Bulla

  
\_\_\_\_\_, J.  
Westbrook

<sup>1</sup>Because we conclude that reversal is required due to the erroneous denial of Celano’s motion for self-representation, we need not reach Celano’s remaining contentions.

cc: Hon. Michael Montero, District Judge  
Nevada State Public Defender's Office  
Attorney General/Carson City  
Humboldt County District Attorney  
Humboldt County Clerk