

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
SHEENA STARUT,
Respondent.

No. 86518

FILED

AUG 19 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting respondent's motion to dismiss. Eighth Judicial District Court, Clark County; Christy L. Craig, Judge.

Respondent Sheena Starut was convicted of third-degree arson in June 2022 (case number C-21-361544-1) and gross misdemeanor malicious destruction of property in September 2022 (case number C-22-268206-1). Starut was sentenced to probation for both offenses. On November 26, 2022, Starut was arrested for an alleged probation violation related to those convictions. And on December 2, 2022, Starut was charged with misdemeanor stalking in case number C-23-370614-1. The district court determined that Starut was incompetent and entered an order of commitment to a facility for competency restoration treatment. After a delay in transport, Starut moved to close the probation violation and/or dismiss all pending matters based on a violation of due process guarantees. The district court held the Nevada Division of Public and Behavioral Health (the Division) in contempt, ordered Starut transferred to a treatment facility within seven days, and dismissed the misdemeanor stalking charge


(C-23-370614-1) without prejudice. When Starut was not transferred, the district court granted Starut's motion, and this appeal followed.


The State argues the district court abused its discretion in granting Starut's motion to dismiss the misdemeanor case and/or close the probation violation. According to the State, the due process violation caused by the approximately 66-day delay in transporting Starut to a facility for competency restoration treatment, *see State v. Gonzalez*, 139 Nev., Adv. Op. 33, 535 P.3d 248, 253 (2023) (recognizing that a prolonged delay in receiving competency restoration treatment constituted a due process violation), cannot justify dismissal. But the dismissal of the misdemeanor case is not properly before us given that the State appealed from the order entered in the arson case (C-21-361544-1). The order entered in that case does not appear to dismiss the charge, which had already been adjudicated. Although the record is somewhat unclear, we construe the order as simply closing the case with respect to the alleged probation violation. As such, the order closing case number C-21-361544-1 did not alter the judgment of conviction or the terms of probation. And Starut remains on probation in case numbers C-21-361544-1 and C-22-268206-1.

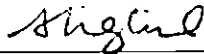
In case number C-21-361544-1, Starut's continued incarceration without recourse provided a legal basis for the district court to impose an appropriate remedy. *Cf. State v. Desavio*, 141 Nev., Adv. Op. 25, 568 P.3d 897 (2025) (concluding that defendant's "continued incarceration without recourse constitutes a legal basis (unalleviated prejudice) that allows for dismissal without prejudice"). As in *Desavio*, the district court attempted to resolve the situation with lesser remedies—holding the Division in contempt, imposing a monetary fine, and ordering Starut transferred within seven days—before closing the case as to the

alleged probation violation. The State does not meaningfully address the distinction between dismissing pending criminal charges and closing the proceedings on an alleged probation violation; thus, it has not met its burden to show that the district court abused its discretion by closing the proceedings on the alleged probation violation. *See Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (recognizing that “[i]t is appellant’s responsibility to present relevant authority and cogent argument”); *Gonzalez*, 139 Nev., Adv. Op. 33, 535 P.3d at 251 (“A district court abuses its discretion if its decision is arbitrary or capricious or if it exceeds the bounds of law or reason.” (internal quotation marks omitted)). Under these circumstances, we conclude that the district court did not abuse its discretion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Herndon


_____, J.
Bell


_____, J.
Stiglich

cc: Hon. Christy L. Craig, District Judge
Attorney General/Carson City
Clark County District Attorney
Clark County Public Defender
Eighth District Court Clerk