



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JESUS CONTRERAS-CARREON,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK;
THE HONORABLE CHRISTY L. CRAIG,
DISTRICT JUDGE; AND KRISTAL
BRADFORD, JUSTICE OF THE PEACE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 92053-COA

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

Jesus Contreras-Carreon petitions for a writ of mandamus¹ to compel the district court to hold an individualized bail hearing in a criminal matter.

In September 2025, an arrest warrant was issued for Contreras-Carreon. Upon issuing the arrest warrant, the justice court set bail at \$100,000. Contreras-Carreon was subsequently arrested and made his initial appearance in justice court. The court found that there were concerns regarding his competency to stand trial and transferred the matter to the district court for a competency determination and declined to conduct an individualized bail hearing under

¹Although Contreras-Carreon's petition is entitled "Petition for writ of mandamus or, in the alternative, for prohibition," the petition itself seeks only a writ of mandamus and thus we do not address the propriety of a writ of prohibition.

Valdez-Jimenez v. Eighth Judicial District Court, 136 Nev. 155, 460 P. 3d 976 (2020).

The district court found that Contreras-Carreon was not competent to stand trial and in the subsequent order of commitment, incorporating general language, the court stated that he was “dangerous to himself or herself and to society [such] that commitment is required.” Therefore, the court ordered him to be committed into inpatient treatment in order to determine his ability to attain competency. The district court also declined to hear Contreras-Carreon’s motion for a bail hearing and vacated the hearing from its calendar. Despite Contreras-Carreon’s request for an individualized bail hearing before both the justice court and the district court, he did not receive a hearing based on the determination made by both courts that his incompetency suspended all pretrial proceedings.

Thereafter, Contreras-Carreon filed this petition for a writ of mandamus seeking to compel the district court to provide him with a bail hearing. Real party in interest, the State of Nevada, has filed an answer as directed, opposing Contreras-Carreon’s request. Contreras-Carreon did not file a reply in support of his petition.

“A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion.” *Int’l Game Tech., Inc. v. Second Jud. Dist. Ct.*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008); *see* NRS 34.160. Mandamus is an extraordinary remedy, and it is within the discretion of this court to determine if a petition will be considered. *Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). As the petitioner, Contreras-Carreon bears the burden of demonstrating that extraordinary relief is warranted. *See Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Based on our review of the petition, answer, and supporting documents in the appendix we conclude Contreras-Carreon has demonstrated that—contrary to the conclusion reached below—he is entitled to a bail hearing,

despite the issues surrounding his competency. And because he has no speedy and adequate remedy available, we conclude our extraordinary intervention is warranted and—for the reasons set forth below—we grant Contreras-Carreón’s petition.

Under NRS 178.405, “[a]ny time after the arrest of a defendant, including, without limitation, proceedings before trial, . . . if doubt arises as to the competence of the defendant, the court shall suspend the proceedings, . . . until the question of competence is determined.” Similarly, under NRS 178.425(5), “proceedings against the defendant must be suspended” when that defendant is found incompetent to stand trial.

However, “[a] defendant who remains in custody following arrest is constitutionally entitled to a prompt individualized determination on his or her pretrial custody status.” *Valdez-Jimenez*, 136 Nev. at 156, 460 P.3d at 980; *see* Nev. Const. art. 1, § 7 (“*All persons* shall be bailable by sufficient sureties; unless for Capital Offenses or murders punishable by life imprisonment without possibility of parole when the proof is evident or the presumption great.” (emphasis added)). Because Contreras-Carreón is not charged with a capital offense or murder, under Nevada’s Constitution, we conclude that he is constitutionally entitled to an individualized bail hearing.

As the supreme court has recognized, “[a]ll acts passed by the [l]egislature are presumed to be valid” and “every possible presumption will be made in favor of the constitutionality of a statute.” *List v. Whisler*, 99 Nev. 133, 137, 660 P.2d 104, 106 (1983). Here, to the extent that the State urges us to construe the phrase “proceedings before trial” in NRS 178.405 and the term “proceedings” under NRS 178.425(5) to include bail hearings amongst the proceedings that are suspended when a defendant is found to be incompetent, we conclude that such a construction would run afoul of the constitutional right to a bail hearing where, as here, the defendant is not charged with a capital offense or

murder.² But, under the circumstances of this case, this statutory language can also be reasonably interpreted to exclude bail hearings from the pretrial proceedings that are suspended by statute where a defendant's competency is at issue. *Cf., Coleman v. Eighth Jud. Dist. Ct.*, No. 92057, 2026 WL 745683 (Nev. Mar. 16, 2026) (Order Denying Petition) (acknowledging that the competency court did not abuse its discretion in denying a limited remand to the trial court for withdrawal of counsel as pretrial proceedings are properly stayed pending the defendant attaining competency).

Here, the State argues that, under *Coleman*, the district court did not abuse its discretion in refusing to conduct a bail hearing as it also constitutes a pretrial proceeding. However, *Coleman* does not address whether a constitutionally required bail hearing should be stayed as a pretrial proceeding, and we decline to extend that case to the situation presented here. Because the rules of statutory construction articulated by our supreme court compel the conclusion that Contrerras-Carreon is entitled to a bail hearing to comply with Nevada's Constitution such hearing cannot be included amongst the proceedings

²We recognize that our supreme court declined to grant mandamus relief in an unpublished decision involving a competency court's refusal to rule on a defendant's motion for own recognizance release, stating that the petitioner/defendant failed to show "the competency court was obligated to resolve the motion . . . where [he] was not . . . competent to stand trial." *Turner v. Eighth Jud. Dist. Ct.*, No. 90787, 2025 WL 2388430, at *2 (Nev. Aug. 15, 2025) (Order Denying Petition). In denying writ relief, the supreme court noted the petitioner's failure to identify authority providing the competency court with such a duty and instead pointed to language in NRS 178.425 and NRS 178.405 requiring the suspension of proceedings against a defendant in such cases as supporting its denial. *Turner*, No. 90787, 2025 WL 2388430, at *2. But in denying writ relief, the *Turner* court did not address the impact of Nevada's constitutional right to bail in cases not involving capital offenses or murders punishable by life imprisonment without possibility of parole, see Nev. Const. art. 1, § 7, ostensibly because it was not raised by the petitioner in that case. As a result, we are not persuaded that *Turner* is germane to the resolution of the issues before us.

that are suspended due to the defendant's incompetency. *See List*, 99 Nev. at 137, 660 P.2d at 106.

Further, granting Contreras-Carreon a bail hearing despite not being competent to stand trial does not violate his due process rights as the State suggests. In contrast to a trial, bail hearings are concerned with a small set of narrow issues. *See* NRS 178.4853 (listing “[f]actors considered in reviewing custody status”). And resolution of these narrow issues does not depend on the meaningful assistance of a defendant like the issues at trial do. Thus, a defendant who is incompetent to stand trial may still have a bail hearing. This result accords with other jurisdictions that have considered this issue. *See, e.g., Commonwealth v. Torres*, 806 N.E.2d 895, 901 (Mass. 2004) (holding that a bail hearing would not violate a defendant's due process rights when they were incompetent but had a limited ability to communicate with counsel); *Sills v. Coates*, 506 P.3d 28, 33 (Ariz. Ct. App. 2022) (“The nature of a bail eligibility hearing is so narrow and the determinations that the court must make in determining release are so limited, that a defendant need not be fully competent to assist at the hearing.” (citation modified)); *cf. Marino v. State*, 277 So. 3d 219, 221 (Fla. Dist. Ct. App. 2019) (noting that a defendant “cannot be denied pretrial release based solely on [their] incompetence to proceed”); *Eckford v. State*, 230 So. 3d 1280, 1281 (Fla. Dist. Ct. App. 2017) (holding that defendant was entitled to a bail hearing despite [the] unresolved question of competency).

Here, psychological reports describing the evaluations of Contreras-Carreon's competency suggest that he is generally able to communicate, and the record on appeal suggests that Contreras-Carreon's family has been involved in the case and attended his initial appearance. Under these circumstances and based on the narrow issues to be addressed at a bail hearing, we are not concerned about such a hearing violating Contreras-Carreon's due process rights for the reasons addressed by other jurisdictions above.

Because Contreras-Carreon was constitutionally entitled to a bail hearing under the circumstances presented in this case, and having such a hearing would not violate his due process rights during his treatment to attain competency, we conclude that the district court must grant him a bail hearing.³

Accordingly, in the absence of a speedy and adequate remedy, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to hold a bail hearing within 30 days.



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Christy L. Craig, District Judge
Attorney General/Carson City
Clark County District Attorney
Marchese Law Office
Kristal Bradford
The Eighth Judicial District Court of the State of Nevada, in and for the
County of Clark, District Court Clerk

³While Contreras-Carreon remains in inpatient treatment, we recognize that there are practical barriers that may preclude Contreras-Carreon from being released on bail unless his commitment status is changed to outpatient treatment. Nevertheless, a bail hearing should be undertaken as required.

Additionally, to the extent Contreras-Carreon raises additional arguments that are not specifically addressed in this order, we have considered the same and conclude that they need not be reached given our disposition of this petition.