

IN THE SUPREME COURT OF THE STATE OF NEVADA

DERRICK RAMON GRIFFIN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 41241

FILED

OCT 13 2003

ORDER OF REVERSAL

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of robbery. The district court sentenced appellant to a prison term of 2 to 15 years. In the guilty plea agreement, appellant reserved the right to appeal the district court's denial of his motion to dismiss, based on a violation of his Sixth Amendment right to a speedy trial and his Fourteenth Amendment right to due process of law.

In assessing a claim that a defendant has been deprived of his constitutional right to a speedy trial, the court must weigh four factors: (1) the length of the delay; (2) the reason for the delay; (3) the defendant's assertion of his rights; and (4) prejudice to the defendant.<sup>1</sup> The four "factors must be considered together, and no single factor is either necessary or sufficient."<sup>2</sup> But the length of the delay must be at least presumptively prejudicial before further inquiry into the other factors is warranted.<sup>3</sup>

In this case, we note that there was a delay of more than 6 years before appellant was finally arrested and returned to Nevada to face

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<sup>1</sup>Barker v. Wingo, 407 U.S. 514, 530-33 (1972).


<sup>2</sup>Sheriff v. Berman, 99 Nev. 102, 107, 659 P.2d 298, 301 (1983).


<sup>3</sup>Barker, 407 U.S. at 530.


the instant charges. A delay of this length is presumptively prejudicial.<sup>4</sup> Moreover, we note that the delay is largely attributable to the State's decision not to extradite appellant in 1999, because the State could not locate the victim. At that time, appellant was apparently told by California officials that "Nevada didn't want him." When appellant was finally returned to Nevada, he immediately asserted his right to a speedy trial.

Considering all of the Barker factors, we conclude that the district court erred by denying appellant's motion to dismiss the charges, and we

ORDER the judgment of conviction REVERSED.

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Leavitt

  
\_\_\_\_\_, J.  
Maupin

cc: Hon. Jackie Glass, District Judge  
Clark County Public Defender  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>4</sup>See Doggett v. United States, 505 U.S. 647, 651-52 (1992).