



April 18, 2025

Nevada Supreme Court and Court of Appeals Criminal Opinions Review

January 2024-March 2025

Chief Judge Kevin Higgins
Sparks Justice Court

I. PRETRIAL

A. Preliminary Hearing

- *Chittenden v. Justice Court of Pahrump*, 544 P.3d 919 (Nev. 2024)

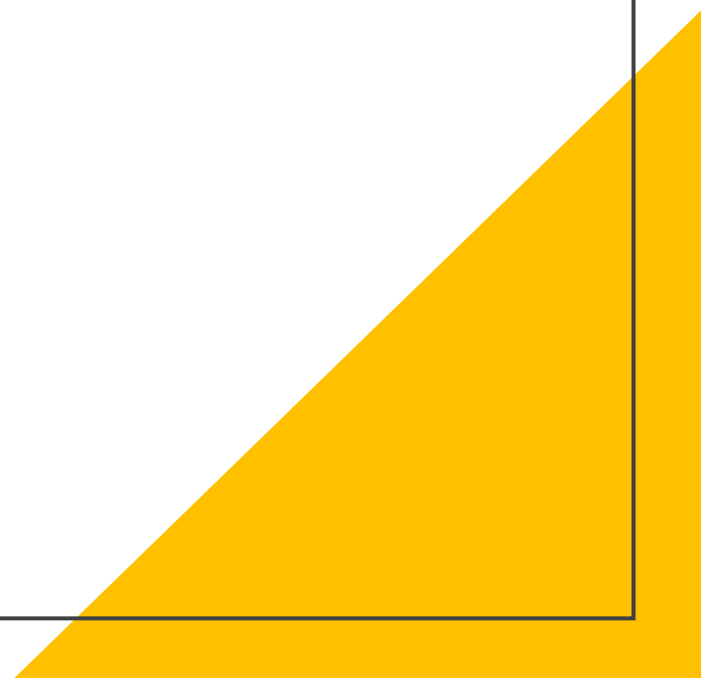
B. Bail

- *Chittenden v. Justice Court of Pahrump*, 544 P.3d 919 (Nev. 2024)

C. Discovery

- *Clark County Dept. of Family Services v. Eighth Judicial Dist. Ct.*, 141 Nev. Adv. Op. 10 (2025)

D. Motion to Dismiss/Suppress

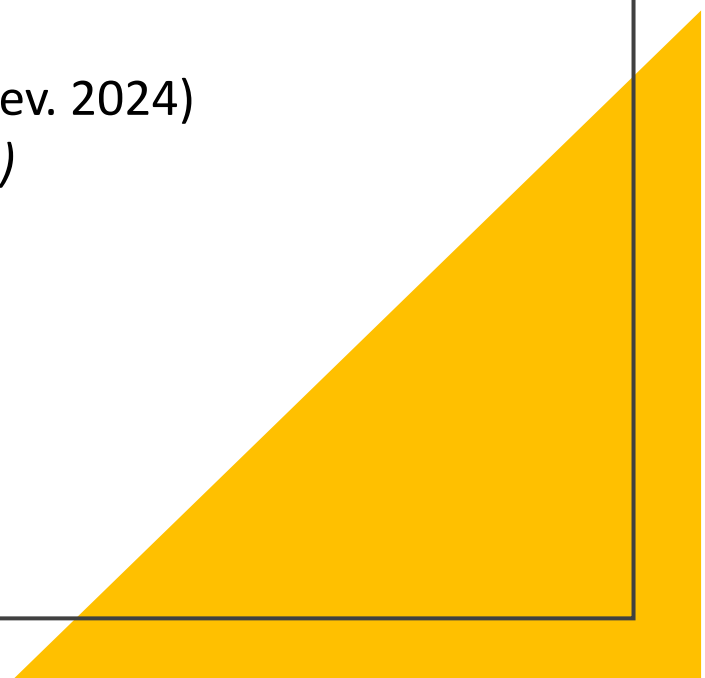
- *Smith v. State*, 545 P.3d 716 (Nev. 2024)
 - *Dayani v. Eighth Judicial District Court*, 554 P.3D 222 (Nev. 2024)
 - *Gilbert v. State*, 548 P.3d 1 (Nev. 2024)
 - *Alvarez v. State*, 561 P.3d 23 (Nev. 2024)
 - *Vaughn v. State*, 563 P.3d 295 (Nev. 2025)
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I. PRETRIAL

E. Pretrial Habeas Corpus

- *Chasing Horse v. Eighth Judicial District Court*, 555 P.3d 1205 (Nev. 2024)
- *Dayani v. Eighth Judicial District Court*, 554 P.3D 222 (Nev. 2024)

F. Grand Jury Proceedings

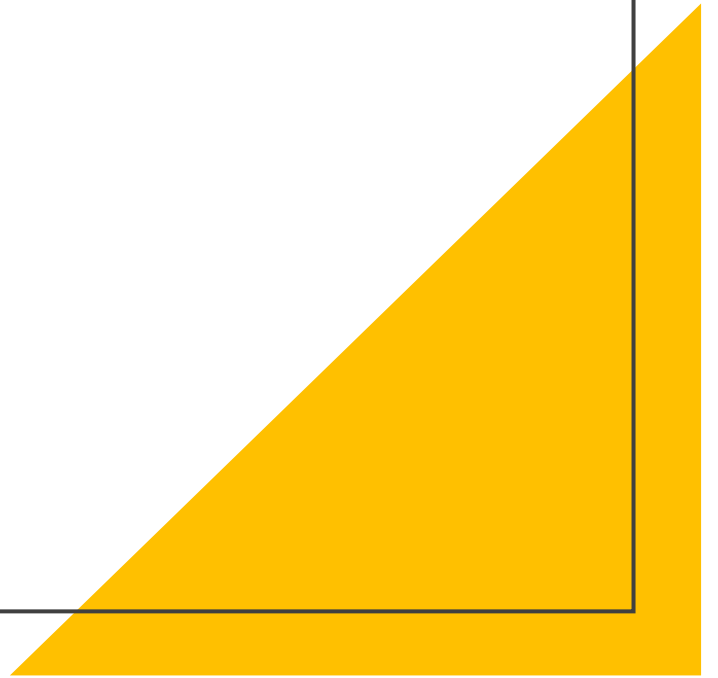
- *State v. Devries*, 561 P.3d 42 (Nev. 2024)
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A. Preliminary Hearing

- *Chittenden v. Justice Court of Pahrump*, 544 P.3d 919 (Nev. 2024)

B. Bail

- *Chittenden v. Justice Court of Pahrump*, 544 P.3d 919 (Nev. 2024)



Chittenden v. Justice Court of Pahrump,
544 P.3d 919 (Nev. 2024)

In this decision, the Court of Appeals addressed NRS 171.196(2)'s requirement that a preliminary hearing be set within 15 days of a criminal defendant's initial appearance on a felony or gross misdemeanor charge unless good cause exists for the delay. Preliminary hearing was not held for 76 days.

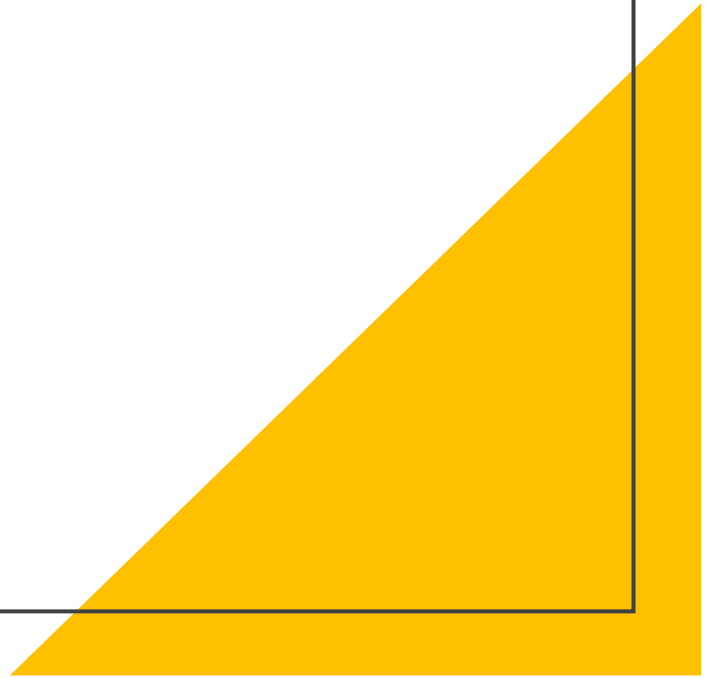
The Court of Appeals held that when deciding whether good cause exists, the justice court must balance the defendant's constitutional right to conditional pretrial liberty against the interest of the State and the needs of the court. Further, the court must make findings on the record to justify any delay of the preliminary hearing and undertake efforts to ensure that the hearing is held as soon as practicable.

Affirmed.

Procedural Posture: On Appeal; Other.

C. Discovery

- *Clark County Dept. of Family Services v. Eighth Judicial Dist. Ct., 141 Nev. Adv. Op. 10 (2025)*



Clark County Dept. of Family Services v. Eighth Judicial District Court, 141 Nev. Adv. Op. 10 (Nev. 2025)

County Department of Family Services (DFS) filed petition for writ of mandamus or, alternatively, writ of prohibition, challenging order of the District Court compelling DFS to disclose to a criminal defendant, who was charged with offenses stemming from child abuse or neglect investigation conducted by DFS, the identities of individuals who made reports to DFS about unrelated allegations involving the alleged victim.

The Supreme Court held that it would entertain the writ as DFS had no other remedy available at law and the issue was one that required the disclosure of allegedly confidential information, which invokes a question as to the limits of the District Court's jurisdiction.

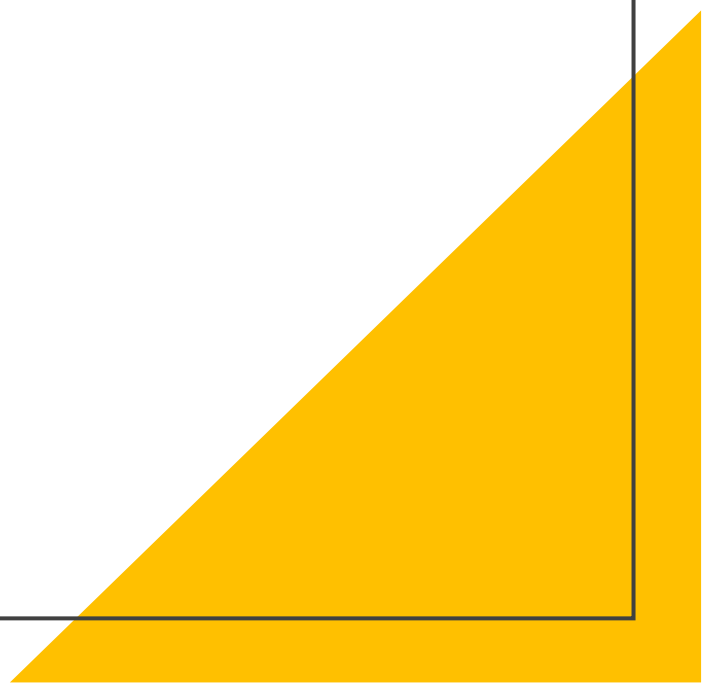
NRS 432B.280 protects identities of reporters of child abuse or neglect if DFS reasonably believes that disclosure would cause specific and material harm to a child abuse investigation or to any person's life or safety.

Both the plain text and public policy weighs in favor of NRS 432B.290(4) to allow disclosure of reporter identities during discovery unless DFS determines that doing so will cause harm to an investigation or person. Because DFS did not make such a determination, the District Court did not exceed its jurisdiction by ordering DFS to disclose the reporter identities.

Petition denied.

Procedural Posture: Petition for Writ of Prohibition; Petition for Writ of Mandamus.

D. Motion to Dismiss/Suppress

- *Smith v. State*, 545 P.3d 716 (Nev. 2024)
 - *Dayani v. Eighth Judicial District Court*, 554 P.3D 222 (Nev. 2024)
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Smith v. State, 545 P.3d 716 (Nev. 2024)

Following denial of a motion to suppress, defendant was convicted of possession of visual presentation depicting sexual conduct of a person under 16 years of age. Defendant appealed.

The Supreme Court held that a probable cause affidavit, which addressed the search of defendant's person, incorporated into a search warrant for defendant's residence did not expand the warrant to cover the search and seizure of defendant's cell phone from his person while outside the residence.

The Supreme Court further held that the good-faith exclusionary rule did not apply to seizure of defendant's cell phone from his person.

The Court determined that the warrantless seizure of defendant's cell phone from his person was justified under imminent destruction of evidence exigency. However, the warrantless forensic search of defendant's cell phone the day after it was seized was not justified and suppression of evidence from that search was warranted.

Reversed and remanded.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion.

Dayani v. Eighth Judicial District Court,
554 P.3d 222 (Nev. 2024)

Defendant originally filed a motion to dismiss indictment for trafficking a controlled substance based on the state's alleged failure to submit exculpatory evidence to the grand jury. The District Court construed Defendant's motion to dismiss as a pretrial motion to petition for writ of habeas corpus and denied the motion as untimely. Petitioner filed an original petition for writ of mandamus or prohibition challenging order denying motion to dismiss indictment.

As a matter of first impression, the Supreme Court held that the challenge alleging failure to submit exculpatory evidence to the grand jury was properly brought through a motion to dismiss rather than application for writ of habeas corpus. Further, the trial court had a duty to review the allegation in the motion to dismiss on its merits.

Petition granted with instructions.

Procedural Posture: Petition for Writ of Mandamus.

Gilbert v. State, 548 P.3d 1 (Nev. 2024)

After the District Court denied a motion to suppress evidence found during a warrantless search of a vehicle, Defendant entered a no-contest plea to ex-felon in possession of a firearm.

The Supreme Court held that a deputy sheriff's investigatory motive for conducting an inventory search of defendant's car did not invalidate the search. The deputy's deviation from sheriff's office policy while performing the inventory search weighed against finding that the search was reasonable, but not significantly so. The inventory search did not exceed the expected scope of an inventory search and served the underlying purpose of an inventory search for the purpose of determining whether the search was reasonable. Under the totality of the circumstances, the inventory search was reasonable.

The factors a District Court must consider in determining whether an inventory search is reasonable under the totality of the circumstances are: (1) to what extent law enforcement departed from the standardized procedures, (2) whether the scope of the search is what one would expect in light of the underlying justifications of inventory searches, and (3) whether the inventory produced served the purpose of an inventory search.

The suppression of evidence is not required when, even assuming a questionable motivation is dominant, "the Fourth Amendment activity undertaken is the same as would have occurred had that intent or motivation been entirely absent from the case." (Citation omitted.)

Affirmed.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion.

Alvarez v. State, 561 P.3d 23 (Nev. 2024)

After Defendant pled guilty to misdemeanor possession of stolen property in Municipal Court, he filed a motion to dismiss a grand larceny in District Court on double jeopardy grounds. The District Court denied his motions to dismiss and suppress and he was convicted of residential burglary, conspiracy to commit burglary, and grand larceny in connection with the same underlying incident. Defendant appealed.

The Supreme Court found Defendant's convictions for both grand larceny and possession of stolen goods, arising from the same act, violated the Double Jeopardy Clause. The determination rests on whether the charges are based on a single act not whether there is or is not overlapping property at issue.

The fact that the return of the search warrant was not filed within 10 days, as required by law, did not mean that the warrant was illegally executed. NRS 179.085(1)(d) allows for a motion to suppress on the ground that a warrant was "*illegally executed*" but does not encompass a warrant that was properly executed but untimely returned.

Affirmed in part, reversed in part, and remanded.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion.

Vaughn v. State, 563 P.3d 295 (Nev. 2025)

Defendant was convicted of six counts of offering a false instrument for filing or record, two counts of simulation of legal process, and two counts of intimidating a public officer, and was sentenced as a habitual criminal to 5-20 years in the aggregate and order to pay \$19,600 in restitution. Defendant appealed.

As a matter of first impression, the Supreme Court held that to support a conviction for offering a false instrument for filing or record under NRS 239.330(1), the State must prove that there was a law allowing for the filing, registration or recordation of the specific type of document at issue through the officer to which it is offered. The State failed to prove that the documents Defendant offered for recordation were of the type that could have been recorded under state or federal law; thus, the conviction on those counts was reversed.

The District Court acted within its discretion in denying Defendant's motion to dismiss indictment on ground that his right to a speedy trial was violated.

The evidence in this case failed to support convictions for offering a false instrument for filing or record. NRS 239.330(1) is not unconstitutionally vague.

The District Court acted within its discretion when it asked a witness allegedly irrelevant questions submitted by the jury as it applied the safeguards in *Flores v. State*, 114 Nev. 910 (1998).

Vaughn v. State, 563 P.3d 295 (Nev. 2025) (Cont.)

Testimony of the State's expert witness alluding to criminal intent, a legal conclusion, did not prejudice the Defendant.

Jury instruction that stated "a defendant's contention that he believes the law of the United States and the State of Nevada do not validly constrain him does not constitute a justification or excuse for his action and the jury is instructed to disregard such contentions" was not misleading.

The District Court acted within its discretion by adjudicating Defendant as a habitual criminal. The Defendant's sentence of an aggregate prison term of 5-20 years was not so disproportionate to the offenses of simulation of legal process and intimidating a public officer as to shock the conscience in violation of federal and state prohibitions on cruel and/or unusual punishment.

The District Court improperly relied on impalpable or highly suspect evidence in determining restitution, thus prejudicing Defendant.

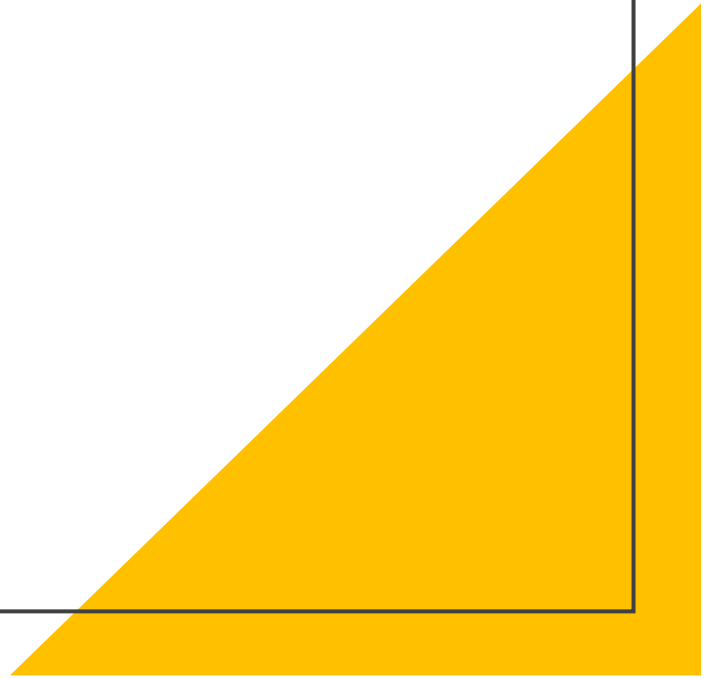
Reversal of entire judgment of conviction was not warranted under the doctrine of cumulative error as there was no other errors to accumulate.

Affirmed in part and reversed in part.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion; Post-Trial Hearing Motion.

E. Pretrial Habeas Corpus

- *Chasing Horse v. Eighth Judicial District Court*, 555 P.3d 1205 (Nev. 2024)
- *Dayani v. Eighth Judicial District Court*, 554 P.3D 222 (Nev. 2024)



Chasing Horse v. Eighth Judicial District Court, 555 P.3d 1205 (Nev. 2024)

Defendant filed a pretrial petition for writ of habeas corpus after the grand jury returned an indictment charging Defendant with first-degree kidnapping of a minor, open or gross lewdness, trafficking a controlled substance, six counts of sexual assault, and ten counts of sexual assault of a victim under 16 years of age. The District Court dismissed the controlled-substance count but otherwise denied the petition. Thereafter, the Defendant filed a petition for writ of mandamus or prohibition compelling the District Court to grant pretrial habeas petition and dismiss the charges.

The Supreme Court on reconsideration *en banc*, ruled that a writ of prohibition was not available as a remedy for District Court's denial of pretrial petition for writ of habeas corpus. The availability of appeal following any conviction did not preclude the Supreme Court from entertaining mandamus petition.

The State's misinstruction regarding grooming violated NRS 172.095(2) requiring the State to inform the grand jury of elements of the offense and prejudiced the Defendant.

The alleged victim's inconsistent statements were exculpatory regarding the element of nonconsent and the State's failure to submit exculpatory evidence to the grand jury prejudiced the Defendant. The State cannot avoid its obligation under NRS 172.145(2) to present exculpatory evidence to the grand jury by characterizing such evidence as merely inconsistent statements.

Petition granted.

Procedural Posture: Preliminary Hearing or Grand Jury Proceeding Motion or Objection.

Dayani v. Eighth Judicial District Court,
554 P.3d 222 (Nev. 2024)

Defendant originally filed a motion to dismiss indictment for trafficking a controlled substance based on the state's alleged failure to submit exculpatory evidence to the grand jury. The District Court construed Defendant's motion to dismiss as a pretrial motion to petition for writ of habeas corpus and denied the motion as untimely. Petitioner filed an original petition for writ of mandamus or prohibition challenging order denying motion to dismiss indictment.

As a matter of first impression, the Supreme Court held that the challenge alleging failure to submit exculpatory evidence to the grand jury was properly brought through a motion to dismiss rather than application for writ of habeas corpus. Further, the trial court had a duty to review the allegation in the motion to dismiss on its merits.

Petition granted with instructions.

Procedural Posture: Petition for Writ of Mandamus.

F. Grand Jury Proceedings

- *State v. Devries*, 561 P.3d 42 (Nev. 2024)
- *Chasing Horse v. Eighth Judicial District Court*, 555 P.3d 1205 (Nev. 2024)
- *Dayani v. Eighth Judicial District Court*, 554 P.3D 222 (Nev. 2024)

State v. Devries, 561 P.3d 42 (Nev. 2024)

Defendants, who were Hells Angels, filed pretrial habeas petition challenging superseding indictments charging them with numerous offenses arising from an incident in which they allegedly ambushed and shot at rival members of the Vagos on Interstate 11 in Henderson, including criminal gang sentencing enhancement. The District Court granted the petition, in part, including dismissing criminal gang sentencing enhancement from all counts. The State appealed.

The Supreme Court held that the State established a sufficient link between local charter and larger organization to render conduct of nonlocal members relevant to whether Hells Angels was a “criminal gang” under sentencing enhancement.

Evidence of the motorcycle club’s criminal activity was not too remote in time to support probable cause that the Hells Angels was a criminal gang at the time of the shooting. Further, evidence was sufficient to support the grand jury’s probable cause determination that the Hells Angels commonly engaged in felonious activity, and thus, was a criminal gang.

Finally, the Supreme Court held the enhancement does not require the State to prove gang membership. Rather, it allows to “any person” convicted of a felony committed “*for the benefit of, at the direction of* or in affiliation with, a criminal gang.” NRS 193.168(1) (emphasis added).

Reversed and remanded.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion.

Chasing Horse v. Eighth Judicial District Court, 555 P.3d 1205 (Nev. 2024)

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Petition granted.

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Petition granted with instructions.

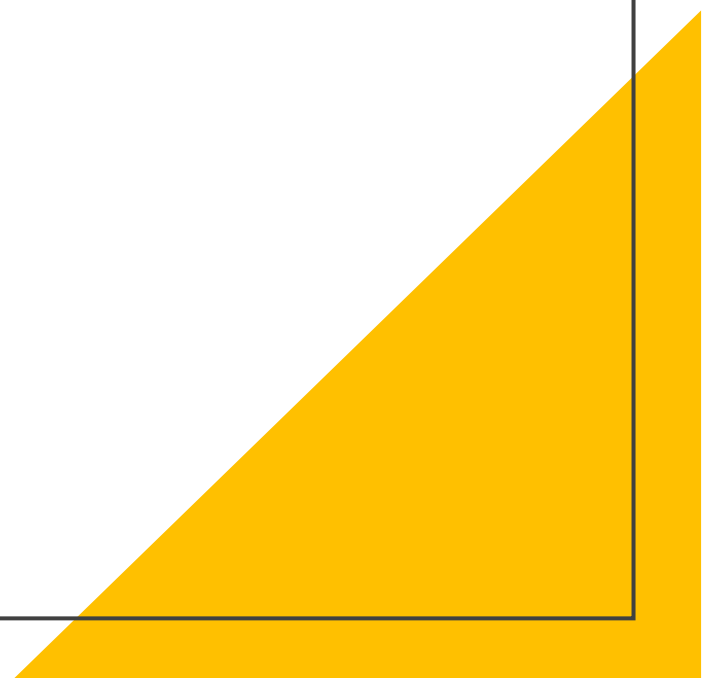
Procedural Posture: Petition for Writ of Mandamus.

II. TRIAL

A. Evidence


- *Rodriguez v. State*, 551 P.2d 311 (Nev. 2024)
- *Gibbs v. State*, 543 P.3d 1185 (Nev. 2024)
- *Ortiz v. State*, 545 P.3d 1142 (Nev. 2024)
- *Vaughn v. State*, 563 P.3d 295 (Nev. 2025)

B. Witnesses

- *Dickey v. State*, 540 P.3d 442 (Nev. 2024)
 - *Chadwick v. State*, 546 P.3d 215 (Nev. 2024)
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II. TRIAL

C. Statutory Interpretation and Definitions

- *Judd v. State*, 547 P.3d 138 (Nev. 2024)
 - *Willson v. The First Judicial District Court*, 547 P.3d 122 (Nev. 2024)
 - *Morrison v. State*, 548 P.3d 431 (Nev. 2024)
 - *Vaughn v. State*, 563 P.3d 295 (Nev. 2025)
 - *Martinez v. State*, 558 P.3d 346 (Nev. 2024)
 - *State v. Devries*, 561 P.3d 42 (Nev. 2024)
 - *Kabew v. Eighth Judicial District Court*, 545 P.3d 1137 (Nev. 2024)
 - *Clark County Dept. of Family Services v. Eighth Judicial Dist. Ct.*, 141 Nev. Adv. Op. 10 (2025)
 - *Ortiz v. State*, 545 P.3d 1142 (Nev. 2024)
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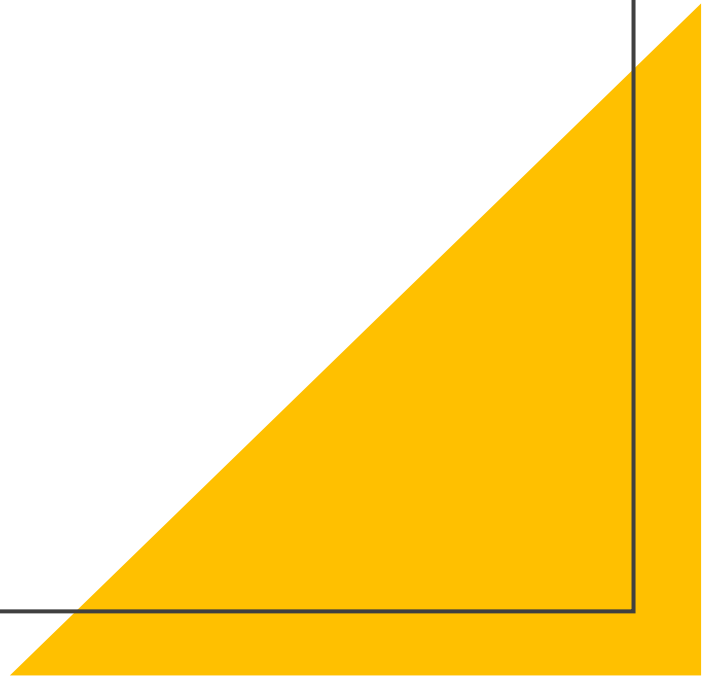
II. TRIAL

D. Prior Bad Acts

- *Chadwick v. State*, 546 P.3d 215 (Nev. 2024)
- *Pinney v. State*, 560 P.3d 670 (Nev. 2024)
- *Dickey v. State*, 540 P.3d 442 (Nev. 2024)

E. Self Defense

- *Pinney v. State*, 560 P.3d 670 (Nev. 2024)



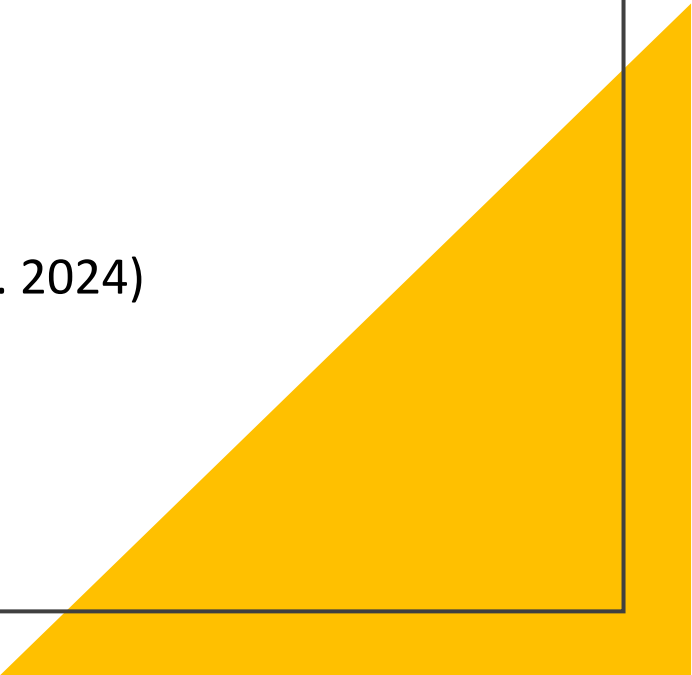
II. TRIAL

F. Juries

i. Voir Dire

- *Mariscal-Ochoa v. State*, 550 P.3d 813 (Nev. 2024)

ii. Instructions

- *Judd v. State*, 547 P.3d 138 (Nev. 2024)
 - *Morrison v. State*, 548 P.3d 431 (Nev. 2024)
 - *Martinez v. State*, 558 P.3d 346 (Nev. 2024)
 - *Mariscal-Ochoa v. State*, 550 P.3d 813 (Nev. 2024)
 - *Chadwick v. State*, 546 P.3d 215 (Nev. 2024)
 - *Chasing Horse v. Eighth Judicial District Court*, 555 P.3d 1205 (Nev. 2024)
 - *Vaughn v. State*, 563 P.3d 295 (Nev. 2025)
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A. Evidence

- *Rodriguez v. State*, 551 P.2d 311 (Nev. 2024)
- *Gibbs v. State*, 543 P.3d 1185 (Nev. 2024)
- *Ortiz v. State*, 545 P.3d 1142 (Nev. 2024)
- *Vaughn v. State*, 563 P.3d 295 (Nev. 2025)

Rodriguez v. State, 551 P.3d 311 (Nev. 2024)

Defendant appealed his conviction of sexual assault and lewdness with a child under the age of 14, and possession of visual presentation depicting sexual conduct with a child under the age of 16.

The Supreme Court determined the District Court did not err in admitting text messages between Defendant and victim. The rule of completeness functions as a mechanism for an adverse party to *introduce* additional statements not exclude them. A party's failure to move for admission of additional statements under NRS 47.120(1) will not render the initial statements *inadmissible*.

The District Court did not err in instructing the jury when the defense failed to propose an instruction regarding a sampling of communications.

Further, the prosecution did not commit misconduct in closing argument by arguing that gaps in text message indicated victim and defendant had met in person.

Affirmed.

Procedural Posture: Appellate Review; Trial or Guilt Phase Motion or Objection.

Gibbs v. State, 543 P.3d 1185 (Nev. 2024)

Defendant appealed a judgment of conviction, pursuant to jury verdict, of second-degree murder with use of a deadly weapon. While on pretrial detention, defendant used another detainee's telephone access code to make a three-way call to connect his investigator. The district court found that by doing so, defendant waived attorney-client privilege. Defendant appealed.

The Supreme Court held that defendant's violation of detention center rules prohibiting use of another inmate's telephone access did not result in a waiver of attorney-client privilege because jail policy alone does not inform the analysis of whether a defendant intended for the attorney-client conversation to be confidential. Defendant's use of three-way calling to connect to the investigator did not waive the attorney-client privilege because nothing on the record indicated a third party listened to or participated in the call, and the district court failed to hold an evidentiary hearing on the issue.

Reversed and Remanded.

Procedural Posture: Appellate Review; Trial or Guilt Phase Motion or Objection.

Ortiz v. State, 545 P.3d 1142 (Nev. 2024)

Following the affirmance of convictions on six counts of sexual assault and other felonies, petitioner filed a petition for writ of habeas corpus which was denied. Petitioner appealed.

The Supreme Court held the appellate counsel's failure to raise a sufficiency challenge amounted to deficient performance and prejudiced the petitioner.

Trial counsel's failure to give an opening statement and counsel's stipulation that orange jail-issued clothing found at the victim's home belonged to petitioner was not deficient performance.

Defense counsel's failure to challenge the testimony of the victim's ex-husband was not deficient performance.

Finally, the Court found that the evidence supported petitioner's dual convictions for second-degree kidnapping and robbery.

Affirmed in part, reversed in part, and remanded with instructions.

Procedural Posture: Appellate Review; Post-Conviction Review.

Vaughn v. State, 563 P.3d 295 (Nev. 2025)

Defendant was convicted of six counts of offering a false instrument for filing or record, two counts of simulation of legal process, and two counts of intimidating a public officer, and was sentenced as a habitual criminal to 5-20 years in the aggregate and order to pay \$19,600 in restitution. Defendant appealed.

As a matter of first impression, the Supreme Court held that to support a conviction for offering a false instrument for filing or record under NRS 239.330(1), the State must prove that there was a law allowing for the filing, registration or recordation of the specific type of document at issue through the officer to which it is offered. The State failed to prove that the documents Defendant offered for recordation were of the type that could have been recorded under state or federal law; thus, the conviction on those counts was reversed.

The District Court acted within its discretion in denying Defendant's motion to dismiss indictment on ground that his right to a speedy trial was violated.

The evidence in this case failed to support convictions for offering a false instrument for filing or record. NRS 239.330(1) is not unconstitutionally vague.

The District Court acted within its discretion when it asked a witness allegedly irrelevant questions submitted by the jury as it applied the safeguards in *Flores v. State*, 114 Nev. 910 (1998).

Vaughn v. State, 563 P.3d 295 (Nev. 2025) (Cont.)

Testimony of the State's expert witness alluding to criminal intent, a legal conclusion, did not prejudice the Defendant.

Jury instruction that stated "a defendant's contention that he believes the law of the United States and the State of Nevada do not validly constrain him does not constitute a justification or excuse for his action and the jury is instructed to disregard such contentions" was not misleading.

The District Court acted within its discretion by adjudicating Defendant as a habitual criminal. The Defendant's sentence of an aggregate prison term of 5-20 years was not so disproportionate to the offenses of simulation of legal process and intimidating a public officer as to shock the conscience in violation of federal and state prohibitions on cruel and/or unusual punishment.

The District Court improperly relied on impalpable or highly suspect evidence in determining restitution, thus prejudicing Defendant.

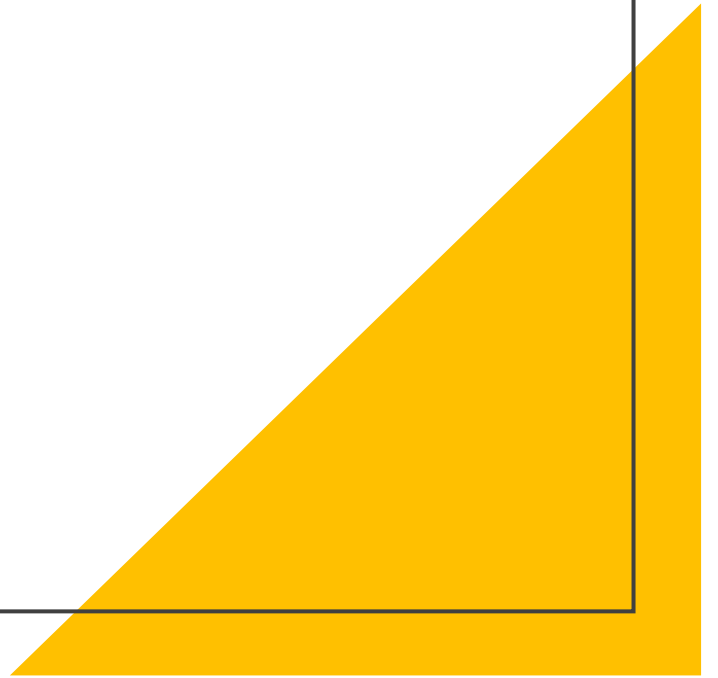
Reversal of entire judgment of conviction was not warranted under the doctrine of cumulative error as there was no other errors to accumulate.

Affirmed in part and reversed in part.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion; Post-Trial Hearing Motion.

B. Witnesses

- *Dickey v. State*, 540 P.3d 442 (Nev. 2024)
- *Chadwick v. State*, 546 P.3d 215 (Nev. 2024)



Dickey v. State, 540 P.3d 442 (Nev. 2024)

Dickey appealed a conviction of murder and sexual assault.

The Supreme Court held that the error in admitting the other acts evidence was harmless. However, the Court did clarify that the balancing test for propensity evidence of other sexual offenses under NRS 48.045(3) does not apply to the admission of other act evidence concerning identity or intent under NRS 28.045(2). The Court also concluded that the trial court's error in including all potential purposes for other acts evidence in instruction to jury limiting use of such evidence was harmless.

The Supreme Court found the trial court did not abuse its discretion by denying a motion for a mistrial after witness entered the court during trial and heard testimony from other witnesses. The Supreme Court further held that a witness's testimony about geolocation data did not require specialized knowledge.

Finally, sufficient evidence supported defendant's conviction for sexual assault, and cumulative errors did not warrant reversal.

Affirmed.

Procedural Posture: Appellate Review; Trial or Guilt Phase Motion or Objection.

Chadwick v. State, 546 P.3d 215 (Nev. 2024)

Chadwick appealed his conviction of leaving the scene of an accident involving personal injury claiming the district court abused its discretion in admitting other bad act evidence of his alcohol consumption and apparent intoxication prior the accident in contravention of NRS 48.045(2). Chadwick also contended the district court erred by failing to hold a *Petrocelli* hearing and provide *Tavares* limiting instructions prior to the admission of testimony he threatened a witness and belonged to a gang.


The Court of Appeals held that the district court did not abuse its discretion by admitting evidence of defendant's alcohol consumption and apparent intoxication because it was relevant to defendant's motive to flee, proven by clean and convincing evidence, and not unfairly prejudicial.

The Court of Appeals further concluded that when bad act evidence is directly elicited by the defendant, it is incumbent upon the defendant to request a limiting instruction, and if they do not do so, the district court is not obligated to raise the issue sua sponte.

Affirmed.

Procedural Posture(s): Appellate Review; Trial or Guilt Phase Motion or Objection.

C. Statutory Interpretation and Definitions

- *Judd v. State*, 547 P.3d 138 (Nev. 2024)
 - *Willson v. The First Judicial District Court*, 547 P.3d 122 (Nev. 2024)
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 - *Ortiz v. State*, 545 P.3d 1142 (Nev. 2024)
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Judd v. State, 547 P.3d 138 (Nev. 2024)

Defendant appealed his conviction of injuring or tampering with a motor vehicle and felony coercion.

The Court of Appeals held that the district court's failure to instruct the jury that the use of phrase "physical force" in the coercion statute was limited to force against a person amounted to reversible error.

As to the charge of injuring or tampering with a motor vehicle causing damage of \$5,000 or more, the district court properly instructed the jury that the measure of damages to victim's truck was the cost to repair or replace the parts necessary to restore the truck.

Affirmed in part, reversed in part, and remanded.

Procedural Posture: Appellate Review; Trial or Guilt Phase Motion or Objection.

Willson v. The First Judicial District Court,
547 P.3d 122 (Nev. 2024)

Petitioner challenged the constitutionality of NRS 197.190 as overbroad or vague after being convicted under this statute for yelling at several police officers attending to a separate life-threatening matter.

The Court of Appeals concluded that (1) NRS 197.190 applies only to physical conduct or fighting words that are specifically intended to hinder, delay, or obstruct a public officer and, therefore, (2) NRS 197.190 as construed by the Court is not unconstitutionally overbroad or vague, either on its face or as applied to Petitioner.

Mandamus relief granted.

Procedural Postures: Petition for Writ of Mandamus; Other.

Morrison v. State, 548 P.3d 431 (Nev. 2024)

Defendant appealed a conviction of sexual assault upon a minor under 14 years of age, a violation of NRS 200.750(2), and use of a minor under the age of 14 in producing pornography, a violation of NRS 200.710(1).

The Court of Appeals held that although the State did not need prove that defendant knew or had reason to know that victim was under the age of 14 to impose a sentence under NRS 200.750(2), the State did need prove beyond a reasonable doubt that defendant knew or had to reason to know that victim was a minor under the age of 18 for the jury to convict him under NRS 200.710(1).

The error in the jury instruction for use of a minor in producing pornography, which in accurately stated that the State was not required to prove defendant's knowledge that victim was a minor was harmless.

Morrison v. State, 548 P.3d 431 (Nev. 2024) (Cont.)

The district court did not abuse its discretion by denying defendant's motion to dismiss counsel because defendant failed to show a significant breakdown in his relationship with counsel. Any error in trial court's failure to perform a *Faretta* canvas was invited error.

Finally, defendant failed to establish prosecution engaged in misconduct by knowingly allowing victim to provide false testimony. The alleged prosecutorial misconduct did not have prejudicial impact on the jury. The State did not improperly comment on evidence during the closing argument.

Affirmed.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion; Trial or Guilt Phase Motion or Objection.

Vaughn v. State, 563 P.3d 295 (Nev. 2025)

Defendant was convicted of six counts of offering a false instrument for filing or record, two counts of simulation of legal process, and two counts of intimidating a public officer, and was sentenced as a habitual criminal to 5-20 years in the aggregate and order to pay \$19,600 in restitution. Defendant appealed.

As a matter of first impression, the Supreme Court held that to support a conviction for offering a false instrument for filing or record under NRS 239.330(1), the State must prove that there was a law allowing for the filing, registration or recordation of the specific type of document at issue through the officer to which it is offered. The State failed to prove that the documents Defendant offered for recordation were of the type that could have been recorded under state or federal law; thus, the conviction on those counts was reversed.

The District Court acted within its discretion in denying Defendant's motion to dismiss indictment on ground that his right to a speedy trial was violated.

The evidence in this case failed to support convictions for offering a false instrument for filing or record. NRS 239.330(1) is not unconstitutionally vague.

The District Court acted within its discretion when it asked a witness allegedly irrelevant questions submitted by the jury as it applied the safeguards in *Flores v. State*, 114 Nev. 910 (1998).

I object! Counsel is trying to confuse the jury with the *intent* of the law, completely ignoring the loopholes and technicalities.



Vaughn v. State, 563 P.3d 295 (Nev. 2025) (Cont.)

Testimony of the State's expert witness alluding to criminal intent, a legal conclusion, did not prejudice the Defendant.

Jury instruction that stated "a defendant's contention that he believes the law of the United States and the State of Nevada do not validly constrain him does not constitute a justification or excuse for his action and the jury is instructed to disregard such contentions" was not misleading.

The District Court acted within its discretion by adjudicating Defendant as a habitual criminal. The Defendant's sentence of an aggregate prison term of 5-20 years was not so disproportionate to the offenses of simulation of legal process and intimidating a public officer as to shock the conscience in violation of federal and state prohibitions on cruel and/or unusual punishment.

The District Court improperly relied on impalpable or highly suspect evidence in determining restitution, thus prejudicing Defendant.

Reversal of entire judgment of conviction was not warranted under the doctrine of cumulative error as there was no other errors to accumulate.

Affirmed in part and reversed in part.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion; Post-Trial Hearing Motion.

State v. Devries, 561 P.3d 42 (Nev. 2024)

Defendants, who were Hells Angels, filed pretrial habeas petition challenging superseding indictments charging them with numerous offenses arising from an incident in which they allegedly ambushed and shot at rival members of the Vagos on Interstate 11 in Henderson, including criminal gang sentencing enhancement. The District Court granted the petition, in part, including dismissing criminal gang sentencing enhancement from all counts. The State appealed.

The Supreme Court held that the State established a sufficient link between local charter and larger organization to render conduct of nonlocal members relevant to whether Hells Angels was a “criminal gang” under sentencing enhancement.

Evidence of the motorcycle club’s criminal activity was not too remote in time to support probable cause that the Hells Angels was a criminal gang at the time of the shooting. Further, evidence was sufficient to support the grand jury’s probable cause determination that the Hells Angels commonly engaged in felonious activity, and thus, was a criminal gang.

Finally, the Supreme Court held the enhancement does not require the State to prove gang membership. Rather, it allows to “any person” convicted of a felony committed “*for the benefit of, at the direction of* or in affiliation with, a criminal gang.” NRS 193.168(1) (emphasis added).

Reversed and remanded.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion.

Kabew v. Eighth Judicial District Court,
545 P.3d 1137 (Nev. 2024)

Defendant filed a petition for writ of mandamus following the denial of his motion to set aside judgment of conviction after successfully completing substance misuse treatment program while on probation.

The Supreme Court determined the statute providing that when a defendant fulfills the terms and conditions of probation pursuant to substance misuse treatment program did not afford district courts any discretion and the district court “shall” set aside the judgment of conviction.

Petition granted.

Procedural Posture: Sentencing or Penalty Phase Motion or Objection.

Clark County Dept. of Family Services v. Eighth Judicial District Court, 141 Nev. Adv. Op. 10 (Nev. 2025)

County Department of Family Services (DFS) filed petition for writ of mandamus or, alternatively, writ of prohibition, challenging order of the District Court compelling DFS to disclose to a criminal defendant, who was charged with offenses stemming from child abuse or neglect investigation conducted by DFS, the identities of individuals who made reports to DFS about unrelated allegations involving the alleged victim.

The Supreme Court held that it would entertain the writ as DFS had no other remedy available at law and the issue was one that required the disclosure of allegedly confidential information, which invokes a question as to the limits of the District Court's jurisdiction.

NRS 432B.280 protects identities of reporters of child abuse or neglect if DFS reasonably believes that disclosure would cause specific and material harm to a child abuse investigation or to any person's life or safety.

Both the plain text and public policy weighs in favor of NRS 432B.290(4) to allow disclosure of reporter identities during discovery unless DFS determines that doing so will cause harm to an investigation or person. Because DFS did not make such a determination, the District Court did not exceed its jurisdiction by ordering DFS to disclose the reporter identities.

Petition denied.

Procedural Posture: Petition for Writ of Prohibition; Petition for Writ of Mandamus.

Ortiz v. State, 545 P.3d 1142 (Nev. 2024)

Following the affirmance of convictions on six counts of sexual assault and other felonies, petitioner filed a petition for writ of habeas corpus which was denied. Petitioner appealed.

The Supreme Court held the appellate counsel's failure to raise a sufficiency challenge amounted to deficient performance and prejudiced the petitioner.

Trial counsel's failure to give an opening statement and counsel's stipulation that orange jail-issued clothing found at the victim's home belonged to petitioner was not deficient performance.

Defense counsel's failure to challenge the testimony of the victim's ex-husband was not deficient performance.

Finally, the Court found that the evidence supported petitioner's dual convictions for second-degree kidnapping and robbery.

Affirmed in part, reversed in part, and remanded with instructions.

Procedural Posture: Appellate Review; Post-Conviction Review.

D. Prior Bad Acts

- *Chadwick v. State*, 546 P.3d 215 (Nev. 2024)
- *Pinney v. State*, 560 P.3d 670 (Nev. 2024)
- *Dickey v. State*, 540 P.3d 442 (Nev. 2024)

Chadwick v. State, 546 P.3d 215 (Nev. 2024)

Chadwick appealed his conviction of leaving the scene of an accident involving personal injury claiming the district court abused its discretion in admitting other bad act evidence of his alcohol consumption and apparent intoxication prior the accident in contravention of NRS 48.045(2). Chadwick also contended the district court erred by failing to hold a *Petrocelli* hearing and provide *Tavares* limiting instructions prior to the admission of testimony he threatened a witness and belonged to a gang.

The Court of Appeals held that the district court did not abuse its discretion by admitting evidence of defendant's alcohol consumption and apparent intoxication because it was relevant to defendant's motive to flee, proven by clean and convincing evidence, and not unfairly prejudicial.

The Court of Appeals further concluded that when bad act evidence is directly elicited by the defendant, it is incumbent upon the defendant to request a limiting instruction, and if they do not do so, the district court is not obligated to raise the issue sua sponte.

Affirmed.

Procedural Posture(s): Appellate Review; Trial or Guilt Phase Motion or Objection.

Pinney v. State, 560 P.3d 670 (Nev. 2024)

Following denial of Defendant's motion to admit evidence of victim's prior violent acts and grant of the State's motion to limit evidence of victim's prior convictions, Defendant was convicted of home invasion, battery, and residential burglary all while in possession of a deadly weapon.

The Court of Appeals held that the trial court abused its discretion in applying general standard for admissibility of prior bad acts to exclude all evidence of victim's prior violent acts. When a Defendant moves to introduce a victim's prior violent acts in support of a self-defense claim, the acts may be admitted pursuant to *Burgeon v. State*, 102 Nev. 43, 714 P.2d 576 (1986) if the Defendant had knowledge of those acts.

The trial court's erroneous exclusion of testimony by Defendant and other witnesses as to victim's prior violent acts was not harmless. Defendant's proffered testimony regarding prior threats made by the victim to Defendant and others as well as other incidents in which the victim was violent was not hearsay. In addition, the trial court erred in limiting evidence of victim's convictions.

Reversed and Remanded.

Procedural Posture(s): Appellate Review; Pre-Trial Hearing Motion.

Dickey v. State, 540 P.3d 442 (Nev. 2024)

Dickey appealed a conviction of murder and sexual assault.

The Supreme Court held that the error in admitting the other acts evidence was harmless. However, the Court did clarify that the balancing test for propensity evidence of other sexual offenses under NRS 48.045(3) does not apply to the admission of other act evidence concerning identity or intent under NRS 28.045(2). The Court also concluded that the trial court's error in including all potential purposes for other acts evidence in instruction to jury limiting use of such evidence was harmless.

The Supreme Court found the trial court did not abuse its discretion by denying a motion for a mistrial after witness entered the court during trial and heard testimony from other witnesses. The Supreme Court further held that a witness's testimony about geolocation data did not require specialized knowledge.

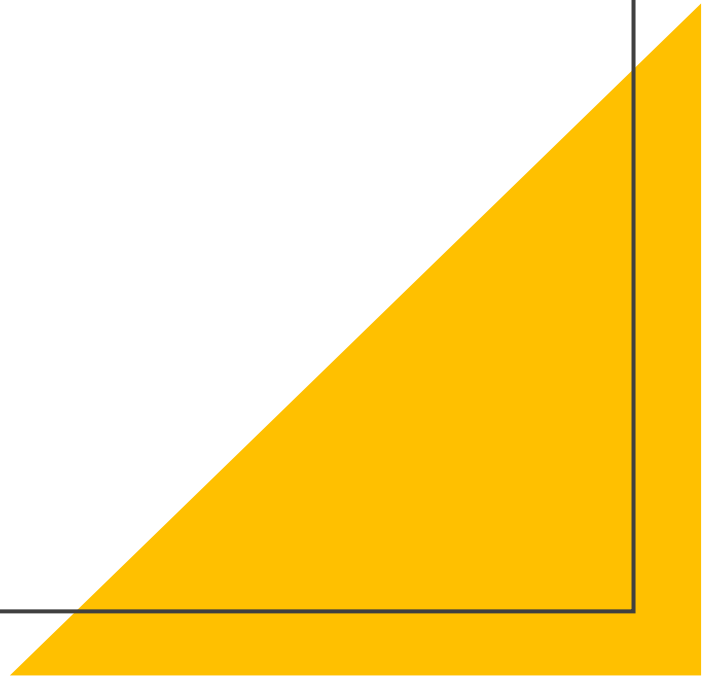
Finally, sufficient evidence supported defendant's conviction for sexual assault, and cumulative errors did not warrant reversal.

Affirmed.

Procedural Posture: Appellate Review; Trial or Guilt Phase Motion or Objection.

E. Self Defense

- *Pinney v. State*, 560 P.3d 670 (Nev. 2024)



Pinney v. State, 560 P.3d 670 (Nev. 2024)

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The Court of Appeals held that the trial court abused its discretion in applying general standard for admissibility of prior bad acts to exclude all evidence of victim's prior violent acts. When a Defendant moves to introduce a victim's prior violent acts in support of a self-defense claim, the acts may be admitted pursuant to *Burgeon v. State*, 102 Nev. 43, 714 P.2d 576 (1986) if the Defendant had knowledge of those acts.

The trial court's erroneous exclusion of testimony by Defendant and other witnesses as to victim's prior violent acts was not harmless. Defendant's proffered testimony regarding prior threats made by the victim to Defendant and others as well as other incidents in which the victim was violent was not hearsay. In addition, the trial court erred in limiting evidence of victim's convictions.

Reversed and Remanded.

Procedural Posture(s): Appellate Review; Pre-Trial Hearing Motion.

F. Juries

i. Voir Dire

- *Mariscal-Ochoa v. State*, 550 P.3d 813 (Nev. 2024)

ii. Instructions

- *Judd v. State*, 547 P.3d 138 (Nev. 2024)
- *Morrison v. State*, 548 P.3d 431 (Nev. 2024)
- *Martinez v. State*, 558 P.3d 346 (Nev. 2024)
- *Mariscal-Ochoa v. State*, 550 P.3d 813 (Nev. 2024)
- *Chadwick v. State*, 546 P.3d 215 (Nev. 2024)
- *Chasing Horse v. Eighth Judicial District Court*, 555 P.3d 1205 (Nev. 2024)
- *Vaughn v. State*, 563 P.3d 295 (Nev. 2025)

Mariscal-Ochoa v. State, 550 P.3d 813 (Nev. 2024)

Defendant appealed his conviction of lewdness and sexual assault against a child under the age of 14 for which he received a sentence of life in prison with parole eligibility after 45 years. During voir dire, a prospective juror alluded to potential prior bad acts of the Defendant. Defendant moved for a mistrial; however, the State suggested the motion was more of a request to strike the venire for cause because jeopardy had not yet attached. The Court denied the motion for mistrial or to strike the venire reasoning the statements were not so prejudicial as to require disqualification of the venire.

The Supreme Court held as a matter of first impression, abuse of discretion was the appropriate standard for reviewing a District Court decision regarding potentially prejudicial statement from prospective juror during voir dire. A curative admonition was appropriate after prospective juror made comments during voir dire indicating that the Defendant may have had another similar criminal case.

Mariscal-Ochoa v. State, 550 P.3d 813 (Nev. 2024) (cont.)

Defendant's convictions for sexual assault and lewdness were not redundant as the two incidents took place on different dates.

Finally, the Court further found that sufficient evidence supported the conviction, the prosecutor did not impermissibly vouch for the victim, and Defendant's sentence was not unconstitutionally cruel or unusual.

Affirmed.

Procedural Posture: Appellate Review; Sentencing or Penalty Phase Motion or Objection; Jury Selection Challenge or Motion.

Judd v. State, 547 P.3d 138 (Nev. 2024)

Defendant appealed his conviction of injuring or tampering with a motor vehicle and felony coercion.

The Court of Appeals held that the district court's failure to instruct the jury that the use of phrase "physical force" in the coercion statute was limited to force against a person amounted to reversible error.

As to the charge of injuring or tampering with a motor vehicle causing damage of \$5,000 or more, the district court properly instructed the jury that the measure of damages to victim's truck was the cost to repair or replace the parts necessary to restore the truck.

Affirmed in part, reversed in part, and remanded.

Procedural Posture: Appellate Review; Trial or Guilt Phase Motion or Objection.

Morrison v. State, 548 P.3d 431 (Nev. 2024)

Defendant appealed a conviction of sexual assault upon a minor under 14 years of age, a violation of NRS 200.750(2), and use of a minor under the age of 14 in producing pornography, a violation of NRS 200.710(1).

The Court of Appeals held that although the State did not need prove that defendant knew or had reason to know that victim was under the age of 14 to impose a sentence under NRS 200.750(2), the State did need prove beyond a reasonable doubt that defendant knew or had to reason to know that victim was a minor under the age of 18 for the jury to convict him under NRS 200.710(1).

The error in the jury instruction for use of a minor in producing pornography, which in accurately stated that the State was not required to prove defendant's knowledge that victim was a minor was harmless.

Morrison v. State, 548 P.3d 431 (Nev. 2024) (Cont.)

The district court did not abuse its discretion by denying defendant's motion to dismiss counsel because defendant failed to show a significant breakdown in his relationship with counsel. Any error in trial court's failure to perform a *Faretta* canvas was invited error.

Finally, defendant failed to establish prosecution engaged in misconduct by knowingly allowing victim to provide false testimony. The alleged prosecutorial misconduct did not have prejudicial impact on the jury. The State did not improperly comment on evidence during the closing argument.

Affirmed.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion; Trial or Guilt Phase Motion or Objection.

Martinez v. State, 558 P.3d 346 (Nev. 2024)

Defendant appealed a conviction of attempted abuse or neglect of a child involving sexual exploitation and soliciting a child for prostitution after a “reverse sting” operation involving undercover officers.

The Supreme Court found the trial court erred by giving a jury instruction that stated the most crucial point for entrapment analysis was who made the initial contact. The instruction was misleading because it suggested that initial contact alone drive the entrapment analysis. However, the Court found this error to be harmless because a different result would not have been likely.

The trial court did not abuse its discretion by excluding extra language in a jury instruction that merely summarized how Defendant believed predisposition, as an element of entrapment, applied to this case.

The Supreme Court adopted the non-exhaustive six-factor test formulated by the Ninth Circuit in *United States v. Black*, 733 F.3d 294, 303 (9th Cir. 2013) as the appropriate vehicle for measuring whether the government’s conduct was outrageous and concluded a “reverse sting” operation was not outrageous.

Martinez v. State, 558 P.3d 346 (Nev. 2024) (Cont.)

The Court further held that a charge under NRS 200.508 for attempted child abuse is applicable to Defendant's conduct even though no actual child was involved so long as Defendant had the specific intent to accomplish the precise act of causing a child to either suffer unjustifiable physical pain or mental suffering or be placed in a situation where the child may suffer as a result of forcing, allowing or encouraging a child to solicit for or engage in prostitution.

Evidence in this case was sufficient to support Defendant's conviction for soliciting a child for prostitution.

Affirmed.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion; Trial or Guilt Phase Motion or Objection.

Mariscal-Ochoa v. State, 550 P.3d 813 (Nev. 2024)

Defendant appealed his conviction of lewdness and sexual assault against a child under the age of 14 for which he received a sentence of life in prison with parole eligibility after 45 years. During voir dire, a prospective juror alluded to potential prior bad acts of the Defendant. Defendant moved for a mistrial; however, the State suggested the motion was more of a request to strike the venire for cause because jeopardy had not yet attached. The Court denied the motion for mistrial or to strike the venire reasoning the statements were not so prejudicial as to require disqualification of the venire.

The Supreme Court held as a matter of first impression, abuse of discretion was the appropriate standard for reviewing a District Court decision regarding potentially prejudicial statement from prospective juror during voir dire. A curative admonition was appropriate after prospective juror made comments during voir dire indicating that the Defendant may have had another similar criminal case.

Mariscal-Ochoa v. State, 550 P.3d 813 (Nev. 2024) (cont.)

Defendant's convictions for sexual assault and lewdness were not redundant as the two incidents took place on different dates.

Finally, the Court further found that sufficient evidence supported the conviction, the prosecutor did not impermissibly vouch for the victim, and Defendant's sentence was not unconstitutionally cruel or unusual.

Affirmed.

Procedural Posture: Appellate Review; Sentencing or Penalty Phase Motion or Objection; Jury Selection Challenge or Motion.

Chadwick v. State, 546 P.3d 215 (Nev. 2024)

Chadwick appealed his conviction of leaving the scene of an accident involving personal injury claiming the district court abused its discretion in admitting other bad act evidence of his alcohol consumption and apparent intoxication prior the accident in contravention of NRS 48.045(2). Chadwick also contended the district court erred by failing to hold a *Petrocelli* hearing and provide *Tavares* limiting instructions prior to the admission of testimony he threatened a witness and belonged to a gang.

The Court of Appeals held that the district court did not abuse its discretion by admitting evidence of defendant's alcohol consumption and apparent intoxication because it was relevant to defendant's motive to flee, proven by clean and convincing evidence, and not unfairly prejudicial.

The Court of Appeals further concluded that when bad act evidence is directly elicited by the defendant, it is incumbent upon the defendant to request a limiting instruction, and if they do not do so, the district court is not obligated to raise the issue sua sponte.

Affirmed.

Procedural Posture(s): Appellate Review; Trial or Guilt Phase Motion or Objection.

Chasing Horse v. Eighth Judicial District Court, 555 P.3d 1205 (Nev. 2024)

Defendant filed a pretrial petition for writ of habeas corpus after the grand jury returned an indictment charging Defendant with first-degree kidnapping of a minor, open or gross lewdness, trafficking a controlled substance, six counts of sexual assault, and ten counts of sexual assault of a victim under 16 years of age. The District Court dismissed the controlled-substance count but otherwise denied the petition. Thereafter, the Defendant filed a petition for writ of mandamus or prohibition compelling the District Court to grant pretrial habeas petition and dismiss the charges.

The Supreme Court on reconsideration *en banc*, ruled that a writ of prohibition was not available as a remedy for District Court's denial of pretrial petition for writ of habeas corpus. The availability of appeal following any conviction did not preclude the Supreme Court from entertaining mandamus petition.

The State's misinstruction regarding grooming violated NRS 172.095(2) requiring the State to inform the grand jury of elements of the offense and prejudiced the Defendant.

The alleged victim's inconsistent statements were exculpatory regarding the element of nonconsent and the State's failure to submit exculpatory evidence to the grand jury prejudiced the Defendant. The State cannot avoid its obligation under NRS 172.145(2) to present exculpatory evidence to the grand jury by characterizing such evidence as merely inconsistent statements.

Petition granted.

Procedural Posture: Preliminary Hearing or Grand Jury Proceeding Motion or Objection.

Vaughn v. State, 563 P.3d 295 (Nev. 2025)

Defendant was convicted of six counts of offering a false instrument for filing or record, two counts of simulation of legal process, and two counts of intimidating a public officer, and was sentenced as a habitual criminal to 5-20 years in the aggregate and order to pay \$19,600 in restitution. Defendant appealed.

As a matter of first impression, the Supreme Court held that to support a conviction for offering a false instrument for filing or record under NRS 239.330(1), the State must prove that there was a law allowing for the filing, registration or recordation of the specific type of document at issue through the officer to which it is offered. The State failed to prove that the documents Defendant offered for recordation were of the type that could have been recorded under state or federal law; thus, the conviction on those counts was reversed.

The District Court acted within its discretion in denying Defendant's motion to dismiss indictment on ground that his right to a speedy trial was violated.

The evidence in this case failed to support convictions for offering a false instrument for filing or record. NRS 239.330(1) is not unconstitutionally vague.

The District Court acted within its discretion when it asked a witness allegedly irrelevant questions submitted by the jury as it applied the safeguards in *Flores v. State*, 114 Nev. 910 (1998).

Vaughn v. State, 563 P.3d 295 (Nev. 2025) (Cont.)

Testimony of the State's expert witness alluding to criminal intent, a legal conclusion, did not prejudice the Defendant.

Jury instruction that stated "a defendant's contention that he believes the law of the United States and the State of Nevada do not validly constrain him does not constitute a justification or excuse for his action and the jury is instructed to disregard such contentions" was not misleading.

The District Court acted within its discretion by adjudicating Defendant as a habitual criminal. The Defendant's sentence of an aggregate prison term of 5-20 years was not so disproportionate to the offenses of simulation of legal process and intimidating a public officer as to shock the conscience in violation of federal and state prohibitions on cruel and/or unusual punishment.

The District Court improperly relied on impalpable or highly suspect evidence in determining restitution, thus prejudicing Defendant.

Reversal of entire judgment of conviction was not warranted under the doctrine of cumulative error as there was no other errors to accumulate.

Affirmed in part and reversed in part.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion; Post-Trial Hearing Motion.

III. CONSTITUTIONAL ISSUES

A. First Amendment

- *Willson v. The First Judicial District Court*, 547 P.3d 122 (Nev. 2024)

B. Fourth Amendment

- *Smith v. State*, 545 P.3d 716 (Nev. 2024)
- *Gilbert v. State*, 548 P.3d 1 (Nev. 2024)
- *Alvarez v. State*, 561 P.3d 23 (Nev. 2024)

C. Fifth Amendment

- *Alvarez v. State*, 561 P.3d 23 (Nev. 2024)

III. CONSTITUTIONAL ISSUES

D. Sixth Amendment

i. Right to Counsel

- *Gibbs v. State*, 543 P.3d 1185 (Nev. 2024)
- *Morrison v. State*, 548 P.3d 431 (Nev. 2024)

ii. Right to Jury Trial

- *Henderson City Atty. v. Cerrone*, 557 P.3d 979 (Nev. 2024)

iii. Right to Public Trial

- *Palmer v. State*, 553 P.3d 447 (Nev. 2024)

iv. Right to Speedy Trial

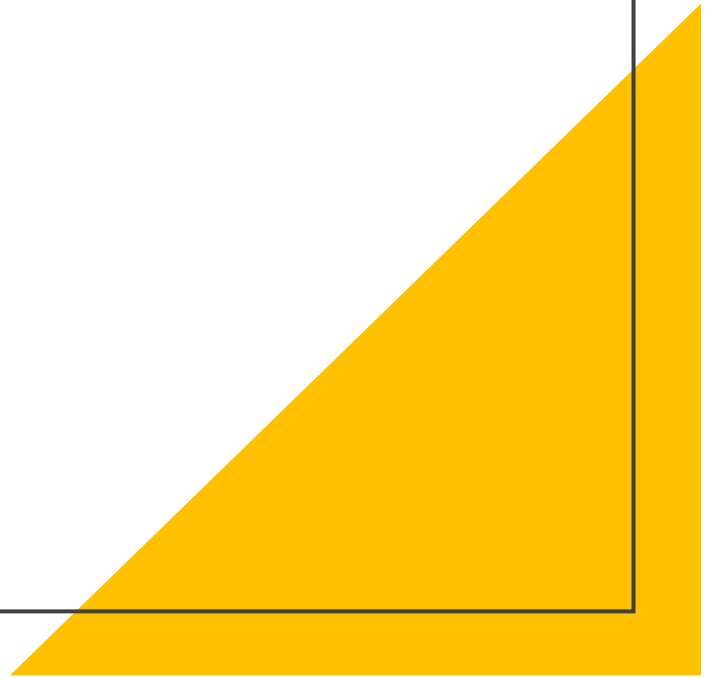
- *Vaughn v. State*, 563 P.3d 295 (Nev. 2025)

E. Eighth Amendment

- *Vaughn v. State*, 563 P.3d 295 (Nev. 2025)

A. First Amendment

- *Willson v. The First Judicial District Court*, 547 P.3d 122 (Nev. 2024)



Willson v. The First Judicial District Court,
547 P.3d 122 (Nev. 2024)

Petitioner challenged the constitutionality of NRS 197.190 as overbroad or vague after being convicted under this statute for yelling at several police officers attending to a separate life-threatening matter.

The Court of Appeals concluded that (1) NRS 197.190 applies only to physical conduct or fighting words that are specifically intended to hinder, delay, or obstruct a public officer and, therefore, (2) NRS 197.190 as construed by the Court is not unconstitutionally overbroad or vague, either on its face or as applied to Petitioner.

Mandamus relief granted.

Procedural Postures: Petition for Writ of Mandamus; Other.

B. Fourth Amendment

- *Smith v. State*, 545 P.3d 716 (Nev. 2024)
- *Gilbert v. State*, 548 P.3d 1 (Nev. 2024)
- *Alvarez v. State*, 561 P.3d 23 (Nev. 2024)

Smith v. State, 545 P.3d 716 (Nev. 2024)

Following denial of a motion to suppress, defendant was convicted of possession of visual presentation depicting sexual conduct of a person under 16 years of age. Defendant appealed.

The Supreme Court held that a probable cause affidavit, which addressed the search of defendant's person, incorporated into a search warrant for defendant's residence did not expand the warrant to cover the search and seizure of defendant's cell phone from his person while outside the residence.

The Supreme Court further held that the good-faith exclusionary rule did not apply to seizure of defendant's cell phone from his person.

The Court determined that the warrantless seizure of defendant's cell phone from his person was justified under imminent destruction of evidence exigency. However, the warrantless forensic search of defendant's cell phone the day after it was seized was not justified and suppression of evidence from that search was warranted.

Reversed and remanded.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion.

Gilbert v. State, 548 P.3d 1 (Nev. 2024)

After the District Court denied a motion to suppress evidence found during a warrantless search of a vehicle, Defendant entered a no-contest plea to ex-felon in possession of a firearm.

The Supreme Court held that a deputy sheriff's investigatory motive for conducting an inventory search of defendant's car did not invalidate the search. The deputy's deviation from sheriff's office policy while performing the inventory search weighed against finding that the search was reasonable, but not significantly so. The inventory search did not exceed the expected scope of an inventory search and served the underlying purpose of an inventory search for the purpose of determining whether the search was reasonable. Under the totality of the circumstances, the inventory search was reasonable.

The factors a District Court must consider in determining whether an inventory search is reasonable under the totality of the circumstances are: (1) to what extent law enforcement departed from the standardized procedures, (2) whether the scope of the search is what one would expect in light of the underlying justifications of inventory searches, and (3) whether the inventory produced served the purpose of an inventory search.

The suppression of evidence is not required when, even assuming a questionable motivation is dominant, "the Fourth Amendment activity undertaken is the same as would have occurred had that intent or motivation been entirely absent from the case." (Citation omitted.)

Affirmed.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion.

Alvarez v. State, 561 P.3d 23 (Nev. 2024)

After Defendant pled guilty to misdemeanor possession of stolen property in Municipal Court, he filed a motion to dismiss a grand larceny count in District Court on double jeopardy grounds. The District Court denied his motions to dismiss and suppress and he was convicted of residential burglary, conspiracy to commit burglary, and grand larceny in connection with the same underlying incident. Defendant appealed.

The Supreme Court found Defendant's convictions for both grand larceny and possession of stolen goods, arising from the same act, violated the Double Jeopardy Clause. The determination rests on whether the charges are based on a single act, not whether there is or is not overlapping property at issue.

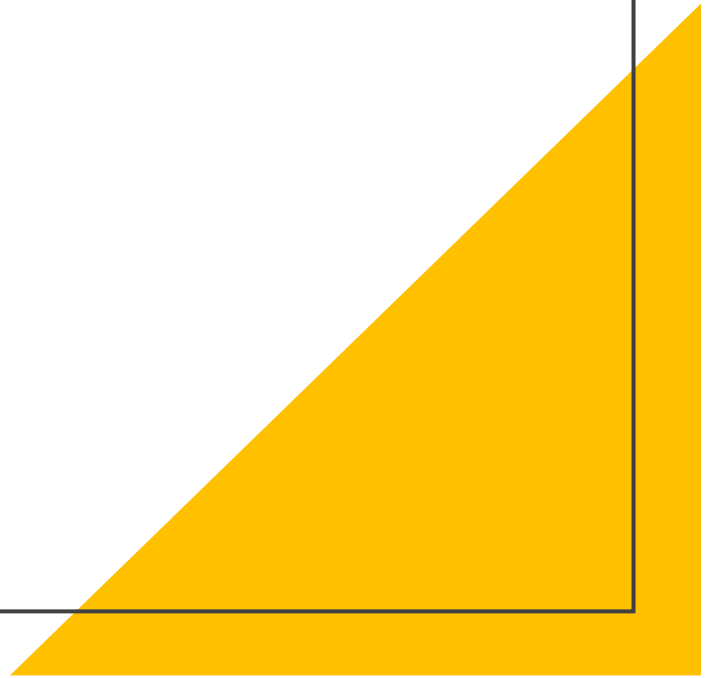
The fact that the return of the search warrant was not filed within 10 days, as required by law, did not mean that the warrant was illegally executed. NRS 179.085(1)(d) allows for a motion to suppress on the ground that a warrant was "*illegally executed*" but does not encompass a warrant that was properly executed but untimely returned.

Affirmed in part, reversed in part, and remanded.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion.

C. Fifth Amendment

- *Alvarez v. State*, 561 P.3d 23 (Nev. 2024)



Alvarez v. State, 561 P.3d 23 (Nev. 2024)

After Defendant pled guilty to misdemeanor possession of stolen property in Municipal Court, he filed a motion to dismiss a grand larceny count in District Court on double jeopardy grounds. The District Court denied his motions to dismiss and suppress and he was convicted of residential burglary, conspiracy to commit burglary, and grand larceny in connection with the same underlying incident. Defendant appealed.

The Supreme Court found Defendant's convictions for both grand larceny and possession of stolen goods, arising from the same act, violated the Double Jeopardy Clause. The determination rests on whether the charges are based on a single act, not whether there is or is not overlapping property at issue.

The fact that the return of the search warrant was not filed within 10 days, as required by law, did not mean that the warrant was illegally executed. NRS 179.085(1)(d) allows for a motion to suppress on the ground that a warrant was "*illegally executed*" but does not encompass a warrant that was properly executed but untimely returned.

Affirmed in part, reversed in part, and remanded.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion.

D. Sixth Amendment

i. Right to Counsel

- *Gibbs v. State*, 543 P.3d 1185 (Nev. 2024)
- *Morrison v. State*, 548 P.3d 431 (Nev. 2024)

ii. Right to Jury Trial

- *Henderson City Atty. v. Cerrone*, 557 P.3d 979 (Nev. 2024)

iii. Right to Public Trial

- *Palmer v. State*, 553 P.3d 447 (Nev. 2024)

iv. Right to Speedy Trial

- *Vaughn v. State*, 563 P.3d 295 (Nev. 2025)

Gibbs v. State, 543 P.3d 1185 (Nev. 2024)

Defendant appealed a judgment of conviction, pursuant to jury verdict, of second-degree murder with use of a deadly weapon. While on pretrial detention, defendant used another detainee's telephone access code to make a three-way call to connect his investigator. The district court found that by doing so, defendant waived attorney-client privilege. Defendant appealed.

The Supreme Court held that defendant's violation of detention center rules prohibiting use of another inmate's telephone access did not result in a waiver of attorney-client privilege because jail policy alone does not inform the analysis of whether a defendant intended for the attorney-client conversation to be confidential. Defendant's use of three-way calling to connect to the investigator did not waive the attorney-client privilege because nothing on the record indicated a third party listened to or participated in the call, and the district court failed to hold an evidentiary hearing on the issue.

Reversed and Remanded.

Procedural Posture: Appellate Review; Trial or Guilt Phase Motion or Objection.

Morrison v. State, 548 P.3d 431 (Nev. 2024)

Defendant appealed a conviction of sexual assault upon a minor under 14 years of age, a violation of NRS 200.750(2), and use of a minor under the age of 14 in producing pornography, a violation of NRS 200.710(1).

The Court of Appeals held that although the State did not need prove that defendant knew or had reason to know that victim was under the age of 14 to impose a sentence under NRS 200.750(2), the State did need prove beyond a reasonable doubt that defendant knew or had to reason to know that victim was a minor under the age of 18 for the jury to convict him under NRS 200.710(1).

The error in the jury instruction for use of a minor in producing pornography, which in accurately stated that the State was not required to prove defendant's knowledge that victim was a minor was harmless.

Morrison v. State, 548 P.3d 431 (Nev. 2024) (Cont.)

The district court did not abuse its discretion by denying defendant's motion to dismiss counsel because defendant failed to show a significant breakdown in his relationship with counsel. Any error in trial court's failure to perform a *Faretta* canvas was invited error.

Finally, defendant failed to establish prosecution engaged in misconduct by knowingly allowing victim to provide false testimony. The alleged prosecutorial misconduct did not have prejudicial impact on the jury. The State did not improperly comment on evidence during the closing argument.

Affirmed.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion; Trial or Guilt Phase Motion or Objection.

Henderson City Atty. v. Cerrone, 557 P.3d 979 (Nev. 2024)

Defendant was originally charged with misdemeanor battery constituting domestic violence and demanded a jury trial. The City amended the complaint to the lesser charge of misdemeanor battery. Defendant petitioned for mandamus relief alleging the City's amendment violated his right to a jury trial.

The Supreme Court held that Defendant had an adequate remedy for his claim, a direct appeal to District Court, and was not entitled to mandamus relief.

Municipal Court acted within its discretion in allowing the City to amend its complaint to a lesser included charge, not a new or different offense, pursuant to NRS 173.095. In addition, prosecutors are permitted under NRS 200.485(1) to dismiss a charge of battery constituting domestic violence.

Municipal Court did not err in declining to afford Defendant a jury trial on a charge of misdemeanor battery which is presumptively petty and does not include the loss of the right to possess a firearm. NRS 202.360(1)(a) has been amended such that it no longer relies on federal law to define a domestic-violence offense. The operation of a federal statute does not entitle a defendant to jury trial where Nevada statutes do not establish the offense as serious.

Reversed.

Procedural Posture: On Appeal; Petition for Writ of Mandamus.

Palmer v. State, 553 P.3d 447 (Nev. 2024)

Following a trial in which Defendant's family members were excluded from the courtroom during victim's testimony, Defendant was convicted of battery constituting domestic violence, pandering, gross misdemeanor false imprisonment, and misdemeanor assault and battery constituting domestic violence.

In a case of first impression, the Court of Appeals held that none of the following constituted substantial reason to justify partial courtroom closure: the need to maintain courtroom control, the prior exclusion of the Defendant's brother from the courtroom, the Defendant's many telephone calls to the victim from the detention center, or the victim's general "concern" about Defendant's family's presence. Partial courtroom closure was broader than necessary and the District Court failed to consider proposed reasonable alternatives to partial closure.

Further, the District Court failed to make adequate findings on the record to support a partial closure of the courtroom. The District violated Defendant's Sixth Amendment right to a public trial when it excluded his entire family from the courtroom during the complaining witness's testimony.

The public trial right is considered so fundamental that a violation constitutes structural error requiring reversal. *See Waller v. Georgia*, 467 U.S. 39 (1984) four-part test.

Reversed and remanded.

Procedural Posture: Appellate Review; Trial or Guilt Phase Motion or Objection.

Vaughn v. State, 563 P.3d 295 (Nev. 2025)

Defendant was convicted of six counts of offering a false instrument for filing or record, two counts of simulation of legal process, and two counts of intimidating a public officer, and was sentenced as a habitual criminal to 5-20 years in the aggregate and order to pay \$19,600 in restitution. Defendant appealed.

As a matter of first impression, the Supreme Court held that to support a conviction for offering a false instrument for filing or record under NRS 239.330(1), the State must prove that there was a law allowing for the filing, registration or recordation of the specific type of document at issue through the officer to which it is offered. The State failed to prove that the documents Defendant offered for recordation were of the type that could have been recorded under state or federal law; thus, the conviction on those counts was reversed.

The District Court acted within its discretion in denying Defendant's motion to dismiss indictment on ground that his right to a speedy trial was violated.

The evidence in this case failed to support convictions for offering a false instrument for filing or record. NRS 239.330(1) is not unconstitutionally vague.

The District Court acted within its discretion when it asked a witness allegedly irrelevant questions submitted by the jury as it applied the safeguards in *Flores v. State*, 114 Nev. 910 (1998).

Vaughn v. State, 563 P.3d 295 (Nev. 2025) (Cont.)

Testimony of the State's expert witness alluding to criminal intent, a legal conclusion, did not prejudice the Defendant.

Jury instruction that stated "a defendant's contention that he believes the law of the United States and the State of Nevada do not validly constrain him does not constitute a justification or excuse for his action and the jury is instructed to disregard such contentions" was not misleading.

The District Court acted within its discretion by adjudicating Defendant as a habitual criminal. The Defendant's sentence of an aggregate prison term of 5-20 years was not so disproportionate to the offenses of simulation of legal process and intimidating a public officer as to shock the conscience in violation of federal and state prohibitions on cruel and/or unusual punishment.

The District Court improperly relied on impalpable or highly suspect evidence in determining restitution, thus prejudicing Defendant.

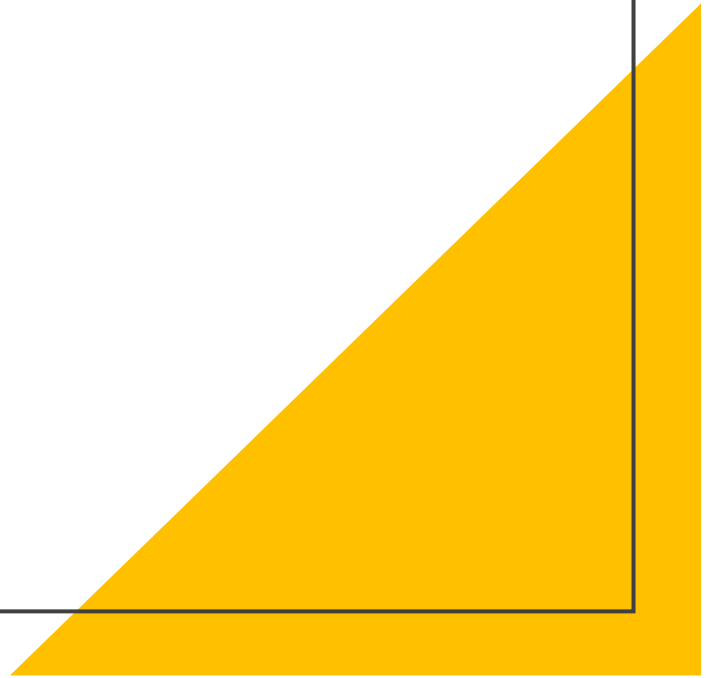
Reversal of entire judgment of conviction was not warranted under the doctrine of cumulative error as there was no other errors to accumulate.

Affirmed in part and reversed in part.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion; Post-Trial Hearing Motion.

E. Eighth Amendment

- *Vaughn v. State*, 563 P.3d 295 (Nev. 2025)



Vaughn v. State, 563 P.3d 295 (Nev. 2025)

Defendant was convicted of six counts of offering a false instrument for filing or record, two counts of simulation of legal process, and two counts of intimidating a public officer, and was sentenced as a habitual criminal to 5-20 years in the aggregate and order to pay \$19,600 in restitution. Defendant appealed.

As a matter of first impression, the Supreme Court held that to support a conviction for offering a false instrument for filing or record under NRS 239.330(1), the State must prove that there was a law allowing for the filing, registration or recordation of the specific type of document at issue through the officer to which it is offered. The State failed to prove that the documents Defendant offered for recordation were of the type that could have been recorded under state or federal law; thus, the conviction on those counts was reversed.

The District Court acted within its discretion in denying Defendant's motion to dismiss indictment on ground that his right to a speedy trial was violated.

The evidence in this case failed to support convictions for offering a false instrument for filing or record. NRS 239.330(1) is not unconstitutionally vague.

The District Court acted within its discretion when it asked a witness allegedly irrelevant questions submitted by the jury as it applied the safeguards in *Flores v. State*, 114 Nev. 910 (1998).

Vaughn v. State, 563 P.3d 295 (Nev. 2025) (Cont.)

Testimony of the State's expert witness alluding to criminal intent, a legal conclusion, did not prejudice the Defendant.

Jury instruction that stated "a defendant's contention that he believes the law of the United States and the State of Nevada do not validly constrain him does not constitute a justification or excuse for his action and the jury is instructed to disregard such contentions" was not misleading.

The District Court acted within its discretion by adjudicating Defendant as a habitual criminal. The Defendant's sentence of an aggregate prison term of 5-20 years was not so disproportionate to the offenses of simulation of legal process and intimidating a public officer as to shock the conscience in violation of federal and state prohibitions on cruel and/or unusual punishment.

The District Court improperly relied on impalpable or highly suspect evidence in determining restitution, thus prejudicing Defendant.

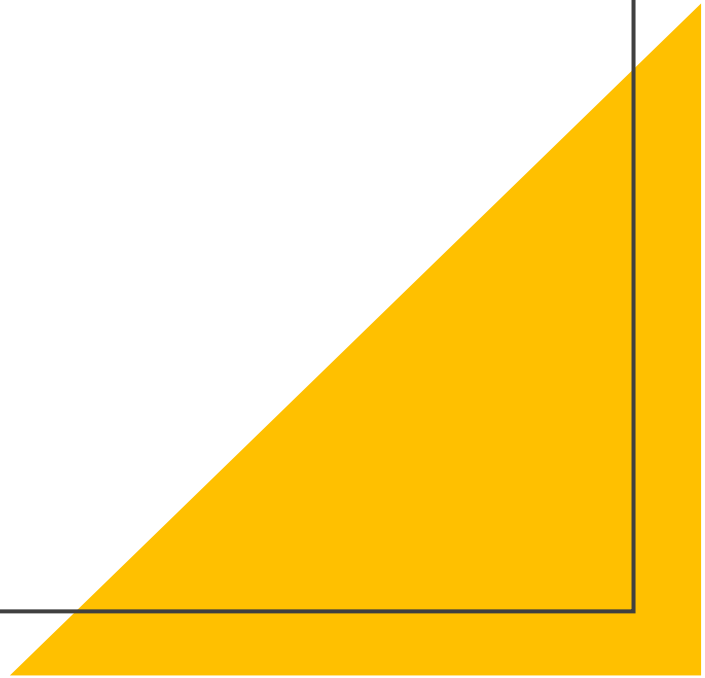
Reversal of entire judgment of conviction was not warranted under the doctrine of cumulative error as there was no other errors to accumulate.

Affirmed in part and reversed in part.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion; Post-Trial Hearing Motion.

IV. SENTENCING

- *Gee v. State*, 545 P.3d 90 (Nev. 2024)
- *Kabew v. Eighth Judicial District Court*, 545 P.3d 1137 (Nev. 2024)
- *Dawson v. State*, 559 P.3d 356 (Nev. 2024)
- *Smith v. State*, 561 P.3d 1079 (Nev. 2024)
- *Vaughn v. State*, 563 P.3d 295 (Nev. 2025)



Gee v. State, 545 P.3d 90 (Nev. 2024)

Defendant appealed his judgment of conviction challenging only the restitution portion of his sentence which awarded restitution to the Victims of Crime Program which had reimbursed the victim's lost wages.

The Supreme Court held that competent evidence did not support the trial court's award of restitution to the Program, and the district court abused its discretion by awarding restitution to the Program without determining whether that restitution needed to be offset by the amount of civil settlement paid to victims from defendant's insurer.

Affirmed in part, vacated in part, and remanded.

Procedural Posture: Appellate Review; Sentencing or Penalty Phase Motion or Objection.

Kabew v. Eighth Judicial District Court,
545 P.3d 1137 (Nev. 2024)

Defendant filed a petition for writ of mandamus following the denial of his motion to set aside judgment of conviction after successfully completing substance misuse treatment program while on probation.

The Supreme Court determined the statute providing that when a defendant fulfills the terms and conditions of probation pursuant to substance misuse treatment program did not afford district courts any discretion and the district court “shall” set aside the judgment of conviction.

Petition granted.

Procedural Posture: Sentencing or Penalty Phase Motion or Objection.

Dawson v. State, 559 P.3d 356 (Nev. 2024)

Defendant was convicted of sexual assault for an offense that occurred over 20 years earlier. Defendant was sentenced as a habitual criminal based on the habitual criminal statute in effect at the time of the offense. Defendant appealed the habitual adjudication.

The Supreme Court held that the version of the habitual criminal statute in effect at the time of the Defendant's offense applied *not* the statute in effect at the time of sentencing.

The relevant version of the habitual criminal statute in effect required three convictions that predated the offense charged. The District Court erred in finding three prior offenses as the State did not ultimately prove the prior noticed convictions predated the offense.

The Supreme Court further held that the District Court on remand may find the fact of the particular number of previous felony convictions without cosigning that determination to a jury.

Sentence vacated and remanded for new sentencing hearing.

Procedural Posture: Appellate Review; Sentencing or Penalty Phase Motion or Objection.

Smith v. State, 561 P.3d 1079 (Nev. 2024)

Defendant filed a petition for writ of mandamus challenging the act revising the method for determining credits to reduce the sentence of offender pursuant to SB 413. Petitioner appealed after the District Court denied the petition.

The Court of Appeals held that the inmate petitioner had a plain, speedy, and adequate remedy in the ordinary course of law. The application of a revised method for determining good time credits was a challenge to the computation of time served and thus had to be made in a postconviction habeas petition pursuant to NRS Chapter 34.

Further, the Court ruled SB 413 is not in effect for “all purposes” until July 1, 2025; therefore, the relief petitioner sought was unavailable.

Affirmed.

Procedural Posture: On Appeal; Petition for Writ of Mandamus.

Vaughn v. State, 563 P.3d 295 (Nev. 2025)

Defendant was convicted of six counts of offering a false instrument for filing or record, two counts of simulation of legal process, and two counts of intimidating a public officer, and was sentenced as a habitual criminal to 5-20 years in the aggregate and order to pay \$19,600 in restitution. Defendant appealed.

As a matter of first impression, the Supreme Court held that to support a conviction for offering a false instrument for filing or record under NRS 239.330(1), the State must prove that there was a law allowing for the filing, registration or recordation of the specific type of document at issue through the officer to which it is offered. The State failed to prove that the documents Defendant offered for recordation were of the type that could have been recorded under state or federal law; thus, the conviction on those counts was reversed.

The District Court acted within its discretion in denying Defendant's motion to dismiss indictment on ground that his right to a speedy trial was violated.

The evidence in this case failed to support convictions for offering a false instrument for filing or record. NRS 239.330(1) is not unconstitutionally vague.

The District Court acted within its discretion when it asked a witness allegedly irrelevant questions submitted by the jury as it applied the safeguards in *Flores v. State*, 114 Nev. 910 (1998).

Vaughn v. State, 563 P.3d 295 (Nev. 2025) (Cont.)

Testimony of the State's expert witness alluding to criminal intent, a legal conclusion, did not prejudice the Defendant.

Jury instruction that stated "a defendant's contention that he believes the law of the United States and the State of Nevada do not validly constrain him does not constitute a justification or excuse for his action and the jury is instructed to disregard such contentions" was not misleading.

The District Court acted within its discretion by adjudicating Defendant as a habitual criminal. The Defendant's sentence of an aggregate prison term of 5-20 years was not so disproportionate to the offenses of simulation of legal process and intimidating a public officer as to shock the conscience in violation of federal and state prohibitions on cruel and/or unusual punishment.

The District Court improperly relied on impalpable or highly suspect evidence in determining restitution, thus prejudicing Defendant.

Reversal of entire judgment of conviction was not warranted under the doctrine of cumulative error as there was no other errors to accumulate.

Affirmed in part and reversed in part.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion; Post-Trial Hearing Motion.

V. POST TRIAL

A. Writ of Mandamus

- *Kabew v. Eighth Judicial District Court*, 545 P.3d 1137 (Nev. 2024)
- *Smith v. State*, 561 P.3d 1079 (Nev. 2024)
- *Henderson City Atty. v. Cerrone*, 557 P.3d 979 (Nev. 2024)

B. Writ of Habeas Corpus

- *Ortiz v. State*, 545 P.3d 1142 (Nev. 2024)
- *Harris v. Gittere*, 548 P.3D 1213 (Nev. 2024)
- *Sanchez v. State*, 561 P.3d 35 (Nev. 2024)

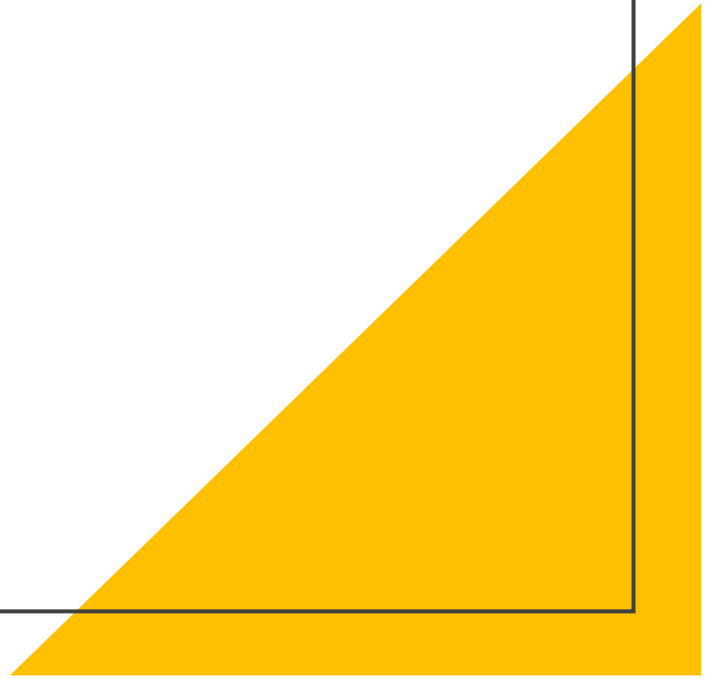
C. Prosecutorial Misconduct

- *Rodriguez v. State*, 551 P.2d 311 (Nev. 2024)
- *Morrison v. State*, 548 P.3d 431 (Nev. 2024)

V. POST TRIAL

D. Ineffective Assistance of Counsel

- *Ortiz v. State*, 545 P.3d 1142 (Nev. 2024)



A. Writ of Mandamus

- *Kabew v. Eighth Judicial District Court*, 545 P.3d 1137 (Nev. 2024)
- *Smith v. State*, 561 P.3d 1079 (Nev. 2024)
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Kabew v. Eighth Judicial District Court,
545 P.3d 1137 (Nev. 2024)

Defendant filed a petition for writ of mandamus following the denial of his motion to set aside judgment of conviction after successfully completing substance misuse treatment program while on probation.

The Supreme Court determined the statute providing that when a defendant fulfills the terms and conditions of probation pursuant to substance misuse treatment program did not afford district courts any discretion and the district court “shall” set aside the judgment of conviction.

Petition granted.

Procedural Posture: Sentencing or Penalty Phase Motion or Objection.

Smith v. State, 561 P.3d 1079 (Nev. 2024)

Defendant filed a petition for writ of mandamus challenging the act revising the method for determining credits to reduce the sentence of offender pursuant to SB 413. Petitioner appealed after the District Court denied the petition.

The Court of Appeals held that the inmate petitioner had a plain, speedy, and adequate remedy in the ordinary course of law. The application of a revised method for determining good time credits was a challenge to the computation of time served and thus had to be made in a postconviction habeas petition pursuant to NRS Chapter 34.

Further, the Court ruled SB 413 is not in effect for “all purposes” until July 1, 2025; therefore, the relief petitioner sought was unavailable.

Affirmed.

Procedural Posture: On Appeal; Petition for Writ of Mandamus.

Henderson City Atty. v. Cerrone, 557 P.3d 979 (Nev. 2024)

Defendant was originally charged with misdemeanor battery constituting domestic violence and demanded a jury trial. The City amended the complaint to the lesser charge of misdemeanor battery. Defendant petitioned for mandamus relief alleging the City's amendment violated his right to a jury trial.

The Supreme Court held that Defendant had an adequate remedy for his claim, a direct appeal to District Court, and was not entitled to mandamus relief.

Municipal Court acted within its discretion in allowing the City to amend its complaint to a lesser included charge, not a new or different offense, pursuant to NRS 173.095. In addition, prosecutors are permitted under NRS 200.485(1) to dismiss a charge of battery constituting domestic violence.

Municipal Court did not err in declining to afford Defendant a jury trial on a charge of misdemeanor battery which is presumptively petty and does not include the loss of the right to possess a firearm. NRS 202.360(1)(a) has been amended such that it no longer relies on federal law to define a domestic-violence offense. The operation of a federal statute does not entitle a defendant to jury trial where Nevada statutes do not establish the offense as serious.

Reversed.

Procedural Posture: On Appeal; Petition for Writ of Mandamus.

B. Writ of Habeas Corpus

- *Ortiz v. State*, 545 P.3d 1142 (Nev. 2024)
- *Harris v. Gittere*, 548 P.3D 1213 (Nev. 2024)
- *Sanchez v. State*, 561 P.3d 35 (Nev. 2024)

Ortiz v. State, 545 P.3d 1142 (Nev. 2024)

Following the affirmance of convictions on six counts of sexual assault and other felonies, petitioner filed a petition for writ of habeas corpus which was denied. Petitioner appealed.

The Supreme Court held the appellate counsel's failure to raise a sufficiency challenge amounted to deficient performance and prejudiced the petitioner.

Trial counsel's failure to give an opening statement and counsel's stipulation that orange jail-issued clothing found at the victim's home belonged to petitioner was not deficient performance.

Defense counsel's failure to challenge the testimony of the victim's ex-husband was not deficient performance.

Finally, the Court found that the evidence supported petitioner's dual convictions for second-degree kidnapping and robbery.

Affirmed in part, reversed in part, and remanded with instructions.

Procedural Posture: Appellate Review; Post-Conviction Review.

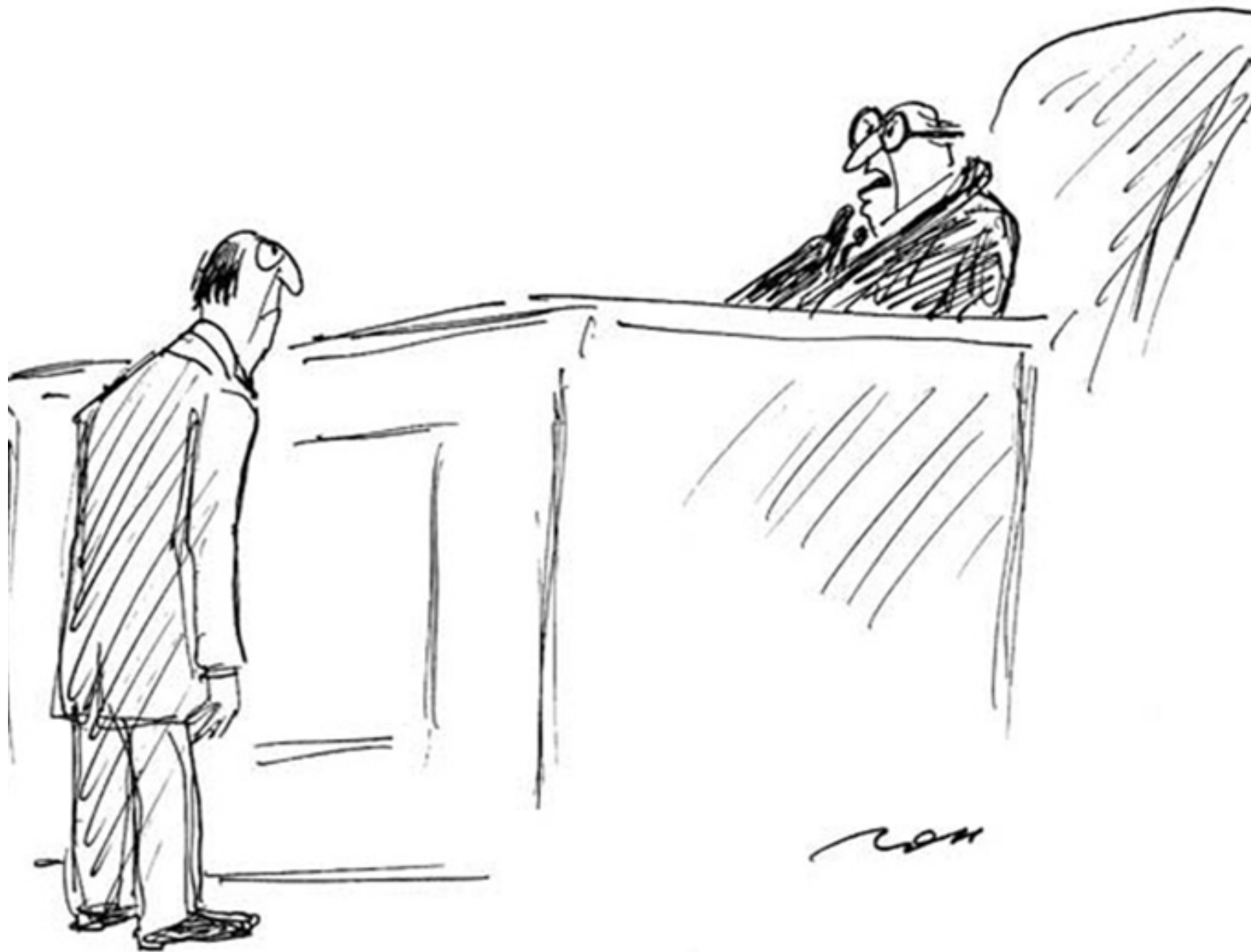
Harris v. Gittere, 548 P.3d 1213 (Nev. 2024)

Petitioner filed a pro se petition for writ of habeas corpus after convictions were affirmed for first-degree kidnapping resulting in substantial bodily harm, battery constituting domestic violence, misdemeanor assault, and battery resulting in substantial bodily harm. Due to a miscommunication, petitioner was not transported to Court for the habeas evidentiary hearing. The Court proceeded with the hearing in petitioner's absence without a valid waiver from petitioner. Following the hearing, the District Court denied the habeas petition and petitioner appealed.

The Supreme Court held that the District Court erred in conducting a habeas evidentiary hearing in petitioner's absence in violation of a statutory right to be present and the error was not harmless. As a matter of first impression, only the habeas petitioner, not counsel, may waive the statutory right to be present at a postconviction habeas evidentiary hearing.

Reversed and Remanded.

Procedural Posture: Appellate Review; Post-Conviction Review.



"And don't go whining to some higher court."

Sanchez v. State, 561 P.3d 35 (Nev. 2024)

Petitioner sought to establish his factual innocence eight years after he entered a negotiated guilty plea to two counts of lewdness with a child under the age of 14. Petitioner appealed after the District Court dismissed the petition without prejudice because petitioner failed to meet pleading requirements under factual innocence statutes.

As a matter of first impression, the Supreme Court held that an order dismissing a factual innocence petition without prejudice because the petition does not meet the pleading requirements under the statute is not appealable. A dismissal without prejudice is not a final judgment and does not foreclose Petitioner from filing another petition for actual innocence that complies with NRS 34.960.

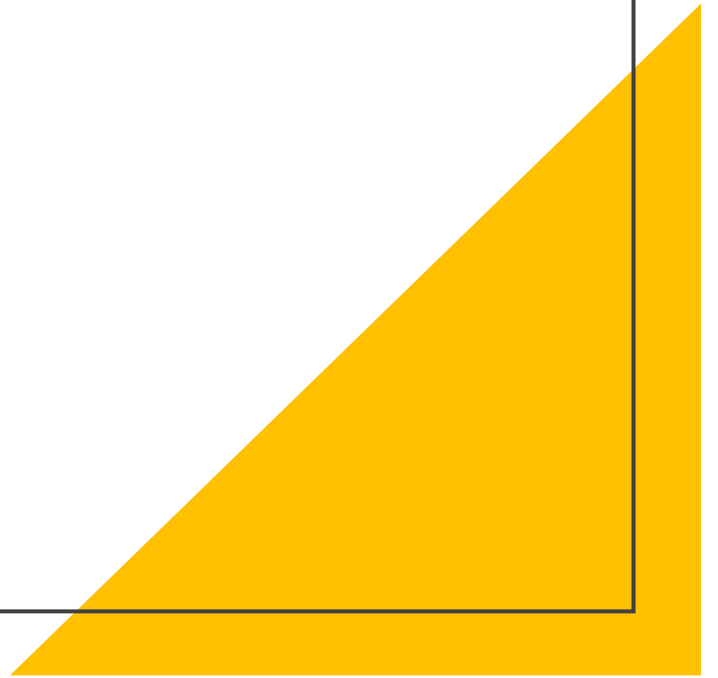
In fact, Petitioner may file multiple petitions for actual innocence so long as they “identify new or different evidence” or “allege new and different grounds.” Factual innocence statutes impose no limitations period.

Appeal dismissed.

Procedural Posture: Appellate Review; Post-Conviction Review.

C. Prosecutorial Misconduct

- *Rodriguez v. State*, 551 P.2d 311 (Nev. 2024)
- *Morrison v. State*, 548 P.3d 431 (Nev. 2024)



Rodriguez v. State, 551 P.3d 311 (Nev. 2024)

Defendant appealed his conviction of sexual assault and lewdness with a child under the age of 14, and possession of visual presentation depicting sexual conduct with a child under the age of 16.

The Supreme Court determined the District Court did not err in admitting text messages between Defendant and victim. The rule of completeness functions as a mechanism for an adverse party to *introduce* additional statements not exclude them. A party's failure to move for admission of additional statements under NRS 47.120(1) will not render the initial statements *inadmissible*.

The District Court did not err in instructing the jury when the defense failed to propose an instruction regarding a sampling of communications.

Further, the prosecution did not commit misconduct in closing argument by arguing that gaps in text message indicated victim and defendant had met in person.

Affirmed.

Procedural Posture: Appellate Review; Trial or Guilt Phase Motion or Objection.

Morrison v. State, 548 P.3d 431 (Nev. 2024)

Defendant appealed a conviction of sexual assault upon a minor under 14 years of age, a violation of NRS 200.750(2), and use of a minor under the age of 14 in producing pornography, a violation of NRS 200.710(1).

The Court of Appeals held that although the State did not need prove that defendant knew or had reason to know that victim was under the age of 14 to impose a sentence under NRS 200.750(2), the State did need prove beyond a reasonable doubt that defendant knew or had to reason to know that victim was a minor under the age of 18 for the jury to convict him under NRS 200.710(1).

The error in the jury instruction for use of a minor in producing pornography, which in accurately stated that the State was not required to prove defendant's knowledge that victim was a minor was harmless.

Morrison v. State, 548 P.3d 431 (Nev. 2024) (Cont.)

The district court did not abuse its discretion by denying defendant's motion to dismiss counsel because defendant failed to show a significant breakdown in his relationship with counsel. Any error in trial court's failure to perform a *Faretta* canvas was invited error.

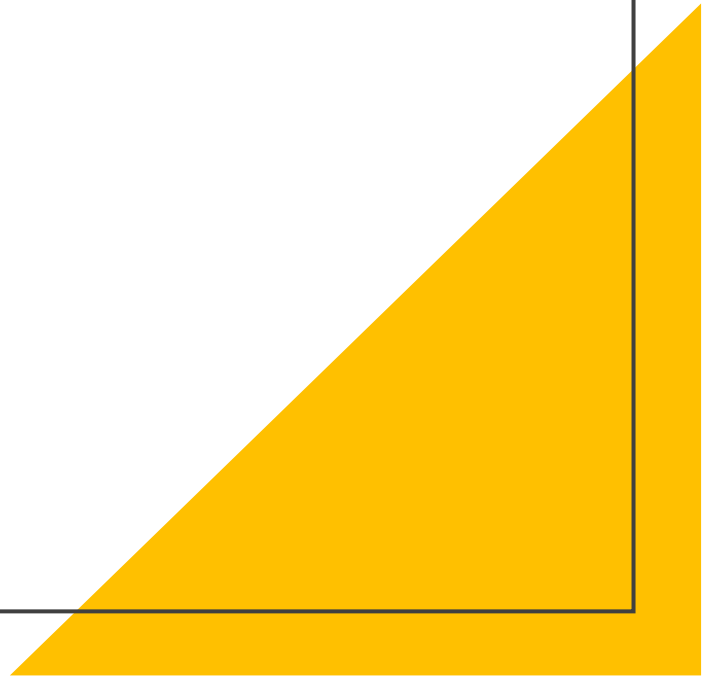
Finally, defendant failed to establish prosecution engaged in misconduct by knowingly allowing victim to provide false testimony. The alleged prosecutorial misconduct did not have prejudicial impact on the jury. The State did not improperly comment on evidence during the closing argument.

Affirmed.

Procedural Posture: Appellate Review; Pre-Trial Hearing Motion; Trial or Guilt Phase Motion or Objection.

D. Ineffective Assistance of Counsel

- *Ortiz v. State*, 545 P.3d 1142 (Nev. 2024)



Ortiz v. State, 545 P.3d 1142 (Nev. 2024)

Following the affirmance of convictions on six counts of sexual assault and other felonies, petitioner filed a petition for writ of habeas corpus which was denied. Petitioner appealed.

The Supreme Court held the appellate counsel's failure to raise a sufficiency challenge amounted to deficient performance and prejudiced the petitioner.

Trial counsel's failure to give an opening statement and counsel's stipulation that orange jail-issued clothing found at the victim's home belonged to petitioner was not deficient performance.

Defense counsel's failure to challenge the testimony of the victim's ex-husband was not deficient performance.

Finally, the Court found that the evidence supported petitioner's dual convictions for second-degree kidnapping and robbery.

Affirmed in part, reversed in part, and remanded with instructions.

Procedural Posture: Appellate Review; Post-Conviction Review.

VI. OTHER

A. Ghost Guns

- *Sisolak v. Polymer80, Inc.*, 546 P.3d 819 (Nev. 2024)

B. Juvenile

- *Matter of D.C.*, 546 P.3d 810 (Nev. 2024)
- *Matter of I.S.*, 545 P.3d 109 (Nev. 2024)

C. Name Change

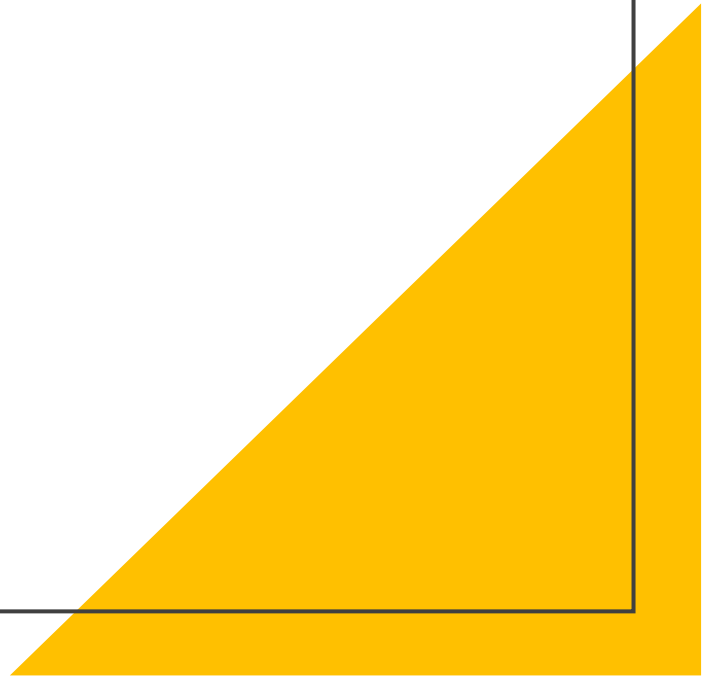
- *Matter of Lowry*, 549 p.3D 483 (Nev. 2024)

D. Writ of Prohibition

- *Clark County Dept. of Family Services v. Eighth Judicial Dist. Ct.*,
141 Nev. Adv. Op. 10 (2025)

A. Ghost Guns

- *Sisolak v. Polymer80, Inc.*, 546 P.3d 819 (Nev. 2024)



Sisolak v. Polymer80, Inc., 546 P.3d 819 (Nev. 2024)

The Governor appealed a declaratory judgment that held the statutes regulating unfinished firearms, also referred to as “ghost guns,” were unconstitutionally vague.

The Supreme Court held that the meanings of terms “blank,” “casting,” and “machined body” used in defining “unfinished frame or receiver” were readily ascertainable based on the context of the statute, and thus terms were not unconstitutionally vague.

The statute generally barring sale, offer to sell, or transfer of an unfinished frame or receiver, and statute generally barring possession, purchase, transport, or receipt of the same, were general intent criminal statutes. General intent criminal statutes were not unconstitutionally vague due to lack of express scienter requirement.

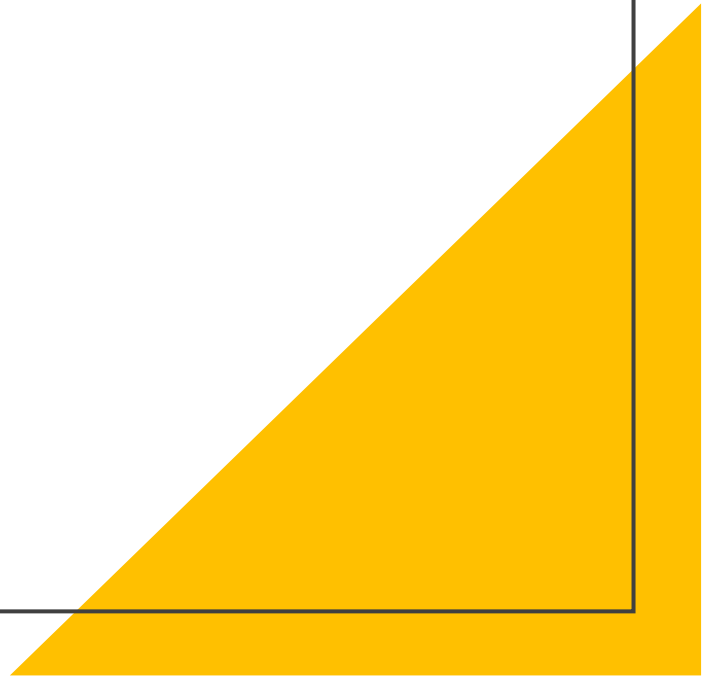
The statutes did not present a risk of arbitrary enforcement, and the district court abused its discretion in issuing a permanent injunction.

Reversed.

Procedural Posture: On Appeal; Motion for Summary Judgment; Motion for Permanent Injunction.

B. Juvenile

- *Matter of D.C.*, 546 P.3d 810 (Nev. 2024)
- *Matter of I.S.*, 545 P.3d 109 (Nev. 2024)



Matter of D.C., 546 P.3d 810 (Nev. 2024)

The State file a delinquency petition against a 14 year old juvenile who had an IQ of 66 and, on the same day, petitioned the juvenile court to certify juvenile for criminal proceedings as an adult. The district court certified juvenile competent and certified him for adult proceedings, and he appealed.

The Supreme Court held that a juvenile who faces the possibility of prosecution as an adult on serious criminal charges as result of certification proceeding must meet adult criminal court stand for competence. An appeal of certification order brought with it the antecedent competency determination.

The Duskey competence standard applies in both juvenile court and adult criminal court under each court's respective competency statutes. The juvenile was only competent to proceed to hearing on his certification to adult criminal court if he met competency prongs at level of competent adult defendant.

The Court further held that any finding by the juvenile court that juvenile's competency was commensurate with that of a competent adult criminal defendant was not supported by substantial evidence. It was error for the juvenile court to proceed to hearing on certifying juvenile to adult criminal court since juvenile court did not properly resolve juvenile's competency challenge.

Vacated and remanded.

Procedural Posture: Appellate Review; Juvenile Delinquency Proceeding.

Matter of I.S., 545 P.3d 109 (Nev. 2024)

State filed petition for adjudication of delinquency on charges for possession of controlled substance and defacing property. The District Court adopted Juvenile Master's recommendation that juvenile be adjudicated delinquent and placed on formal probation. In doing so, the court rejected I.S.'s argument that NRS 62C.200(1)(b) creates an unconstitutional prosecutorial veto by requiring the district attorney's written approval before informal supervision may be ordered. Juvenile appealed.

First, the Supreme Court held that juvenile's completion of formal probation did not render moot juvenile's separation of powers challenge on appeal.

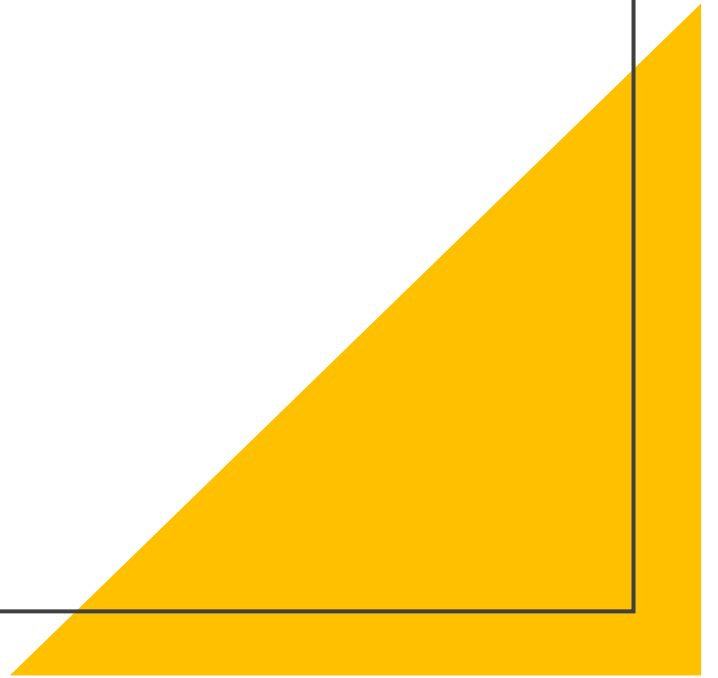
The Court further concluded that NRS 62C.230's incorporation of NRS 62C.200(1)(b) did not violate the separation of powers doctrine because the option to dismiss a petition without prejudice and refer a juvenile to informal supervision is more akin to a charging decision.

Affirmed.

Procedural Posture: Appellate Review; Juvenile Delinquency Proceeding.

C. Name Change

- *Matter of Lowry*, 549 p.3D 483 (Nev. 2024)



Matter of Lowry, 549 P.3d 483 (Nev. 2024)

Prisoner, who had been convicted of a sexual offense against a minor, appealed the denial of his petition to legally change his name for religious reasons.

The Supreme Court held that convicted felons, regardless of offense, may petition to change their name so long as they otherwise comply with the name-change statutes. A prisoner's ineligibility to seal his criminal records did not preclude him from petitioning to legally change his name.

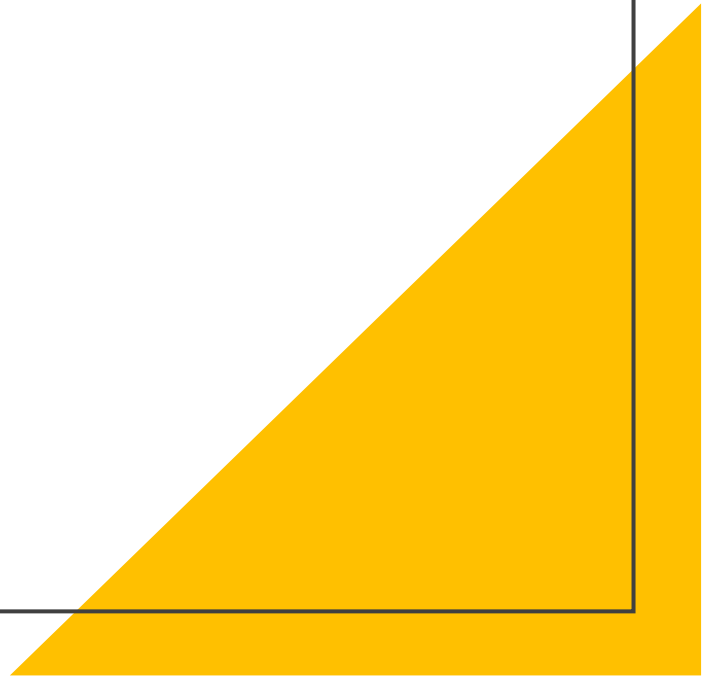
Substantively, the Court must consider the applicant's criminal record, in addition to any other relevant evidence, to determine whether "good reason exists" for the name change. That decision is left to the discretion of the District Courts based on the facts and circumstances present in a given case.

Reversed and remanded.

Procedural Posture: On Appeal; Other.

D. Writ of Prohibition

- *Clark County Dept. of Family Services v. Eighth Judicial Dist. Ct., 141 Nev. Adv. Op. 10 (2025)*



Clark County Dept. of Family Services v. Eighth Judicial District Court, 141 Nev. Adv. Op. 10 (Nev. 2025)

County Department of Family Services (DFS) filed petition for writ of mandamus or, alternatively, writ of prohibition, challenging order of the District Court compelling DFS to disclose to a criminal defendant, who was charged with offenses stemming from child abuse or neglect investigation conducted by DFS, the identities of individuals who made reports to DFS about unrelated allegations involving the alleged victim.

The Supreme Court held that it would entertain the writ as DFS had no other remedy available at law and the issue was one that required the disclosure of allegedly confidential information, which invokes a question as to the limits of the District Court's jurisdiction.

NRS 432B.280 protects identities of reporters of child abuse or neglect if DFS reasonably believes that disclosure would cause specific and material harm to a child abuse investigation or to any person's life or safety.

Both the plain text and public policy weighs in favor of NRS 432B.290(4) to allow disclosure of reporter identities during discovery unless DFS determines that doing so will cause harm to an investigation or person. Because DFS did not make such a determination, the District Court did not exceed its jurisdiction by ordering DFS to disclose the reporter identities.

Petition denied.

Procedural Posture: Petition for Writ of Prohibition; Petition for Writ of Mandamus.

Questions???

Contact

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