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Summary of State v. Robles-Nieves, 129 Nev. Adv. Op. No. 55

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CRIMINAL PROCEDURE

Summary

The Court considered the appropriate factors for evaluating a motion for the stay of a criminal proceeding pending the resolution of an interlocutory appeal from an order granting a motion to suppress evidence.

Disposition/Outcome

NRAP 8(c) provides the relevant factors that govern the court's discretion in determining whether to grant a stay of a criminal proceeding pending the resolution of an interlocutory appeal on a motion to suppress evidence.² These four factors are: (1) whether the object of the appeal will be defeated if the stay is denied, (2) whether the appellant will suffer irreparable harm or serious injury if the stay is denied, (3) whether the respondent will suffer irreparable injury if the stay is granted, and (4) whether the appellant is likely to prevail on the merits in the appeal.³ The court determined that the first factor is most significant in the context of an interlocutory suppression appeal.

Factual and Procedural History

Defendant, Ricardo Robles-Nieves, charged with murder, successfully litigated a pre-trial motion to suppress an incriminating statement he made to police based on a claim that the statement was procured through the use of extrinsic falsehoods.

The State appealed the order granting the motion to suppress pursuant to NRS 177.015(2). After several continuances, the district court considered the defendant's right to a speedy trial and set a trial date, denying the State's request to stay the trial pending the appeal.

Discussion

Justice Hardy wrote the opinion for an en banc Court. The Court observed that NRS 177.015(2) expressly authorizes the State to make an interlocutory appeal to the Nevada Supreme Court from a trial court order granting a motion to suppress evidence.⁴ The statute also provides the Court with the authority to "enter an order staying the trial for such time as may be required" if the Court decides to entertain the appeal or if a stay "is otherwise necessary."⁵ However, the statute does not identify the factors relevant to the court's exercise of discretion to stay the trial.

¹ By Sean Africk

² NEV. R. APP. P. 8(c).

³ *Id.*

⁴ NEV. REV. STAT. § 177.015(2).

⁵ *Id.*

In absence of the express rule, the court looked to Nevada Rules of Appellate Procedure for guidance. It determined that NRAP 8(c), which sets forth the factors that a court should evaluate in a motion for stay in a civil appeal, were also most relevant for guiding the court's discretion under a motion to stay a criminal trial under NRS 177.015(2) because it allowed the Court to take into consideration interests of both the prosecution and the defense and legislative concern about delay.⁶ The Court evaluated these factors in determining whether to grant the State's motion.

Whether the object of the appeal will be defeated if the stay is denied.

The court recognized that in the context of an interlocutory appeal, this factor is the most significant because the appeal will be rendered moot, and effectively eliminated, if the trial proceeds in absence of the suppressed evidence. The court found that the factor weighed heavily in favor of the State because the State would lose the right expressly granted by the legislature in NRS 177.015(2) if the stay was denied.

Whether the appellant will suffer irreparable harm or serious injury if the stay is denied.

The state argued that it would suffer irreparable injury if it had to proceed to trial without a key piece of evidence. Robles-Nieves countered that the state would not be harmed by the stay because even if the state succeeded in its appeal, the district court would most likely grant the motion to suppress the evidence on other grounds. The court determined that while both arguments were speculative, this factor weighed in favor of the State because the State's case without the confession was circumstantial at best, and the State had no recourse if the defendant was acquitted.

Whether the respondent will suffer irreparable injury if the stay is granted.

Robles-Nieves argued that he would suffer irreparable injury if the stay was granted for two reasons: (1) he would remain incarcerated unnecessarily based on a coerced confession, and (2) the delay would infringe his speedy trial rights. The court dismissed the first argument, finding that because of facts particular to Robles-Nieves' custody, denying the stay would not result in his immediate release.⁷ The court addressed the second argument in greater detail.

The Court observed that Nevada defendants are provided with two rights to a speedy trial. The first right is guaranteed by the constitutional protections of the Sixth Amendment,⁸ while the second right is granted by NRS 178.556(1)—which provides defendants with a right to trial within sixty days of arraignment.⁹

In determining whether a stay will infringe on the constitutional right to a speedy trial, the Court relied on a four factor test adopted by the Supreme Court.¹⁰ These factors include: (1) the length

⁶ See NEV. R. APP. P. 8(c).

⁷ It appears Robles-Nieves was on an immigration hold.

⁸ U.S. CONST. amend. VI.

⁹ NEV. REV. STAT. § 178.556(1) (2011).

¹⁰ *Barker v. Wingo*, 407 U.S. 514, 530 (1972).

of the delay (2) the reason for the delay, (3) the defendants assertion of the right, and (4) prejudices to the defendant.¹¹

The court found that overall the balance of the factors weighed in favor of the State. It noted for the first factor that, though the defendant had been held for twelve months since his arraignment, much of the time was attributable to the appeal at bar. Under the second factor—the reason for the delay—the court evaluated the strength of the State’s position, the importance of the issue in the case, and the seriousness of the crime. It found that the appeal was not frivolous, and that it addressed an issue of importance to the State in the sufficiently serious offense of murder. Under the third factor—assertion of the right—the Court found that Robles-Nieves promptly asserted his speedy trial right, consistently objecting to continuances and stays. With regard to the final factor—prejudice to the defendant—the Court found that the most serious interest protected by the right to a speedy trial was “to limit the possibility that the defense would be impaired”, as opposed to “preventing oppressive pretrial incarceration” or “to minimize the anxiety and concern of the accused.” The court found no suggestion that the stay would impair the defense.

The Court then considered the speedy trial right granted by NRS 178.556(1) which provides defendants with a right to a trial within sixty days of arraignment.¹² The Court recognized that the statute is only mandatory when there is lack of good cause for delay. It reasoned that if the right to appeal under NRS 177.015(2) was not good cause, then that right would be effectively eliminated by the 60-day rule. The Court concluded that unless an appeal is frivolous or involves only a tangential issue, it will be regarded as good cause. Having already found that the appeal was not frivolous, the Court held that the stay would not violate Robles-Nieves statutory right to a speedy trial.

Whether the appellant is likely to prevail on the merits in the appeal.

The Court found that while in some cases the likelihood of success on the merits may be significant, it is far less significant in the context of an interlocutory appeal under NRS 177.015(2). It determined that because the first factor weighs heavily in favor of the stay, the final factor will only counterbalance the first factor when the appeal appears to be frivolous or sought for dilatory purposes. The Court concluded that this did not weigh strongly either way.

Conclusion

The Court granted the State’s motion for the stay pending appeal of the suppression order. Additionally, the Court recognized that the factors in determining whether there is a speedy-trial violation are fluid, and that by requesting a stay there is a risk that these factors may eventually weigh against the State.

¹¹ *Id.*

¹² NEV. REV. STAT. § 178.556(1) (2011).