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State v. Brown (Taren), 134 Nev. Adv. Op. 102 (Dec. 20, 2018)

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CRIMINAL LAW: MOTION TO SUPPRESS

Summary

The Court interpreted the good cause showing requirements in NRS 177.015(2) and defined two of the statute's key phrases: (1) the phrase "propriety of the appeal" means that an appeal is not taken for the purpose of delay, and (2) the phrase "miscarriage of justice" means that suppression of evidence would significantly impair or terminate the State's ability to prosecute the case. Finding that the State in this case failed to demonstrate good cause, the Court dismissed the appeal.

Background

On October 28, 2017, Taren Brown was apprehended by the Reno Police Department after he allegedly pointed a gun at the victim and pulled the trigger. Brown was placed in the back of a police car and the police officer proceeded to conduct a recorded interrogation. Brown made numerous self-incriminating statements during the interrogation. He was later charged with attempted murder with the use of a deadly weapon, assault with a deadly weapon, carrying a concealed firearm, and possession of a firearm with an altered or removed serial number.

Brown filed a motion to suppress his statements from the interrogation on the grounds that he was not provided the right to an attorney and the police officer did not effectively read Brown his *Miranda* rights² before or during the interrogation. The district court granted Brown's motion, and the State appealed from the district court's suppression order under NRS 177.015(2). This appeal followed.

Discussion

Before the Court will consider the State's appeal on a motion to suppress, the State must make a good cause showing why the court should entertain the appeal. Specifically, NRS 177.015(2) states, in pertinent part that "[t]he appellate court . . . may establish such procedures as it determines proper in requiring the appellant to make a preliminary showing of the propriety of the appeal and whether there may be a miscarriage of justice if the appeal is not entertained."³ The Court looked to legislative history to understand the intent for the State to be required to make a preliminary good cause showing.

The Court specifically addressed the legislature's recognition that an interlocutory appeal from a suppression order was the only opportunity the State had to seek an appeal of an erroneous suppression ruling. On the other hand, the legislative history has stated concern for the potential for frivolous appeals which may unduly delay trial and burden judicial efficiency. Analogizing those concerns with those of other states, the Court interpreted the statute concluding that "propriety of the appeal" shall be defined to mean that an appeal is not sought for the purpose of delay and that "miscarriage of justice" shall be defined to mean that suppressed evidence is of

¹ By Tracie Jefcik.

² See *Miranda v. Arizona*, 384 U.S. 436 (1966).

³ Nev. Rev. Stat. § 177.015(2) (2017).

substantial importance such that to prohibit the appeal would impair or terminate the State's ability to prosecute the case.

Conclusion

The Court found that the State did not demonstrate how the suppression of Brown's statements substantially impaired or terminated its ability to prosecute the case, thus failing to show how a miscarriage of justice would result if the Court did not entertain its appeal. Moreover, because the record indicated that Brown made similar statements elsewhere, the Court determined that the State could sufficiently proceed in prosecuting Brown without the recorded police interrogation statements taken in the police car. Therefore, the Court dismissed the State's appeal.