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Nevada v. Inzunza, 135 Nev. Adv. Op. 69 (Dec. 26, 2019)

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Nevada v. Inzunza, 135 Nev. Adv. Op. 69 (Dec. 26, 2019)[1]
CONSTITUTIONAL LAW: SIXTH AMENDMENT

Summary

The Court affirmed a pretrial motion to dismiss of an indictment after it determined that the State failed to rebut the presumption of prejudice after an analysis under the Barker-Doggett factors.[2] The Court afforded "the only possible remedy" after it was found that a 26 month delay resulted from the State's gross negligence and the delay was prejudicial to Inzunza.

Background

Rigoberto Inzunza lived in the same household as E.J when she was nine years old. Inzunza allegedly sexually assaulted E.J. over the course of a year until he moved out of the residence. Six years later, E.J. informed her therapist of the assaults. The therapist informed E.J.'s mother who subsequently went with E.J. to file a police report at the North Las Vegas Police Department (NLVPD). The NVLPD interviewed E.J. and opened an investigation. E.J.'s mother provided detective Hoyt with printouts from Inzunza's Facebook profile depicting his car, New Jersey license plate, and his employer's business name and number. Hoyt submitted the case to the District Attorney's office to file charges after only trying to locate Inzunza locally.

One month after E.J. reported the sexual assault, the State filed a criminal complaint charging Inzunza with 10 counts of sexual assault of a minor under 14 years of age in addition to five counts of lewdness with a child under 14 years of age. The NVLPD then entered the warrant into the National Crime Information Center (NCIC) without informing detective Hoyt, pursuant to NLVPD policy. Hoyt made no further effort to follow up in the case. Inzunza was arrested in New Jersey two years later on January 29, 2017 for the outstanding warrant and was transported to Nevada. The State then obtained an indictment, adding another count of sexual assault.

Inzunza moved to dismiss the case, arguing the State violated his Sixth Amendment right to a speedy trial and his due process rights under the Fifth and Fourteenth Amendment due to the two-year delay between his charge and arrest.[3] The State conceded that it was aware Inzunza was in New Jersey but it could not move forward by contacting the New Jersey police before it obtained a warrant for arrest. Further, the State explained that their policy does not alert any detectives upon an issuing of a warrant. Therefore, it was an error on the part of NLVPD for failing to check if the warrant was approved and following up with their information.

Detective Hoyt explained that he relied on the DA's office to file the charges, return the case to NLVPD to get a warrant, and enter the warrant into the NCIC database. In addition, he stated that he "hope[d]" that utilizing the NCIC would work to apprehend Inzunza. Hoyt further explained that their policy did not encourage them to follow up on cases submitted to the DA's office, call other jurisdictions without a warrant, or follow up on Facebook leads. Additionally, it was stated that it was not customary to utilize police resources in tracking down an individual in a "common sexual assault" case.

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[1] By Christopher Gonzalez.
[2] *See* Barker v. Wingo, 407 U.S. 514, 530–33 (1972); Doggett v. United States, 505 U.S. 647, 651–54 (1992).
[3] U.S. Const. amend. VI

Discussion

The Court reviewed the district court's decision to grant or deny a motion to dismiss an indictment based on a speedy trial violation for an abuse of discretion.[4] In evaluation of a Sixth Amendment right violation, the Court gives deference to the district court's factual findings and reviews them for clear error.[5] However, the court's legal conclusions are reviewed de novo.[6]

The Sixth Amendment guarantees "[in] all criminal prosecutions, the accused shall enjoy the right to a speedy… trial."[7] Such violations are analyzed by applying a four-part balancing test set forth by the United States Supreme Court in *Barker* and clarified in *Doggett*.[8] The four parts of the test include length of delay, the reason for the delay, the defendant's assertion of his right, and prejudice to the defendant.[9] The Court stated that each case must be decided on its own facts and that "[n]o one factor is determinative."[10]

When considering the length of delay, the Court considers two factors. First, to trigger the *Barker-Doggett* analysis, the length of delay must be presumptively prejudicial and found that accusations meet the required standard "as it approaches one year."[11] Second, when the test is triggered, the district court must consider, "as one factor among several, the extent to which the delay stretches beyond the bare minimum needed to trigger judicial examination."[12]

The Court held that the district court did not abuse its discretion in determining the length of Inzunza's 26-month delay triggered the *Barker-Doggett* test as it was long enough for it to be classified as presumptively prejudicial. The Court also explained that the State ignores a strong of cases allowing a Barker-Doggett analysis for significantly shorter delays than in *Doggett*.[13]

When considering the reason for delay, the Court stated that this factor focuses on whether the government is responsible for the delay and is the "focal inquiry" in a speedy trial challenge.[14] Doggett stated that the district court's finding on the reason for delay and its justification is reviewed "with considerable deference" and Barker further outlined three types of government delay with an assigned weight to each instance.[15]

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[4] *See* Hill v. State, 188 P.3d 51, 54 (2008) (reviewing for abuse of discretion a denial of motion to dismiss an indictment based on grand juror bias); State v. Craig, 484 P.2d 719 (1971) (reviewing for abuse of discretion based on a statutory speedy trial violation).

[5] *See* United States v. Gregory, 322 F.3d 1157, 1160–61 (9th Cir. 2003).

[6] *See* United States v. Carpenter, 781 F.3d 599, 607–08 (1st Cir. 2015).

[7] U.S. Const. amend VI.

[8] Barker, 407 U.S. at 530; Doggett, 505 U.S. at 651.

[9] Barker, 407 U.S. at 530.

[10] United States v. Clark, 83 F.3d 1350, 1354 (11th Cir. 1996) (each case must be decided on its own facts); United States v. Ferreira, 665 F.3d 701, 705 (6th Cir. 2011) (no one factor is determinative).

[11] See United States v. Erenas-Luna, 560 F.3d 772, 776 (8th Cir. 2009) (Length of delay must be presumptively prejudicial); United States v. Corona-Verbera, 509 F.3d 1105,1114 (9th Cir. 2007) (Found a delay that approaches one year is presumptively prejudicial).

[12] Doggett, 505 U.S. at 652.

[13] *See*, e.g., United States v. Moreno, 789 F.3d 72, 81 (2d Cir. 2015); United States v. Dent, 149 F.3d 180, 185 (3d. Cir. 1998); United States v. Beamon, 992 F.2d 1009, 1014 (9th Cir. 1993).

[14] United States v. Alexander, 817 F.3d 1178, 1182 (9th Cir. 2016).

[15] Doggett, 505 U.S. at 652; Barker, 407 U.S. at 531.

The Court concluded the district court did not abuse its discretion when it found the 26-month delay was caused entirely by the State's gross negligence finding Hoyt did not attempt to contact Inzunza or have him arrested despite knowing his whereabouts. Additionally, there was no evidence Inzunza was aware of the charges which could suggest he was evading the law.

When considering the assertion of the right, the Court will next determine "whether in due course the defendant asserted his right to a speedy trial."[16] While the State argued that this factor weighed against Inzunza because he did not assert this right, the Court declined this argument because a defendant must be aware that the State filed charges against them to have the factor weighed against them.[17] Therefore, the Court found that the district court did not abuse its discretion when it found that the assertion of the right was not weighed against Inzunza.

Lastly, when considering the prejudice to the defendant, the Court analyzed "the possibility that the defense will be impaired" finding it to be the only relevant interest (disregarding factors including "oppressive pretrial incarceration" and "anxiety and concern of the accused").[18] The *Doggett* court stated that the "[I]mpairment of one's defense is the most difficult form of speedy trial prejudice to prove because time's erosion of exculpatory evidence and testimony 'can rarely be shown."[19] It was clarified that "courts should not be overly demanding with respect to proof of such prejudice."[20] The Court then reiterated that in *Doggett*, the Supreme Court found the prejudice factor of *Barker* may weigh in favor of the defendant even though they "failed to make any affirmative showing that the delay weakened his ability raise specific defenses, elicit specific testimony, or produce specific items of evidence."[21]

Once the presumption of prejudice is applied, the State is afforded the opportunity to rebut the presumption. Upon the failure of such a rebuttal, the *Barker* factors weigh in favor of the defendant, necessitating the "severe remedy of dismissal" as the "only possible remedy."[22] The Court explained the only instance where a defendant is relieved of showing actual prejudice is in cases which the delay is five years or more.[23]

The Court considered various factors including: the length of the post-charge delay, whether the length of the post-charge delay was compounded by a lengthy and inordinate pre-charge delay, the investigation conducted by law enforcement, the complexity of the alleged crime, and whether the negligence was particularly egregious.[24]

The Court concluded that, even if the State and Hoyt were acting within policy, the investigation was negligent due to their inaction in light of overwhelming information provided by E.J.'s mother.[25] Restating that Inzunza was not aware of the charges, it was determined that

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[16] Erenas-Luna, 560 F.3d at 778.
[17] Doggett, 505 U.S. at 653–54.
[18] Barker, 407 U.S. at 532.
[19] Doggett, 404 U.S. at 555 (quoting Barker, 407 U.S. at 532).
[20] 5 Wayne R LaFave et al., Criminal Procedure § 18.2(e) (14th ed. 2015).
[21] Doggett, 407 U.S. at 655.
[22] Barker, 407 U.S. at 522.
[23] United States v. Serna–Villarreal, 352 F.3d 225, 232 (5th Cir. 2003).
[24] United States v. Oliva, 909 F.3d 1292, 1302 (11th Cir. 2018)
[25] United States v. Schlei, 122 F.3d 944, 987 (11th Cir. 1997).

the state's actions were the sole reason for the delay. With the burden shifted to the state to rebut the presumption of prejudice, the court found that it failed to meet its burden by no offering rebuttal evidence at the evidentiary hearing and did not address prejudice in its Opposition to Defendant's Motion to Dismiss. Lastly, the Court declined the state's argument that Inzunza was not prejudiced because he was arrested during the statute of limitations period because it is meant to give the victim more time to come forward, not afford law enforcement more time to arrest the perpetrator. Thus, the Court found that the State has not persuasively rebutted the presumption of prejudice.

Conclusion

According to the Court, a Sixth Amendment violation is afforded the severe remedy of dismissal because it is the "only possible remedy." The Court affirmed the district court's dismissal of the indictment after an analysis under the *Barker–Doggett* test finding Inzunza properly invoked his speedy trial, he was properly entitled to a presumption of prejudice, and the State failed to rebut that presumption.