

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF HENDERSON,

Appellant,

vs.

BERNARDO ARMENDAREZ, JACOB
ALEXANDER NAVARRO-REYES,
NAYIB WATSON, LOUIS ANTHONY
DELOSRIOS, JR., VIRGIL
CRISTOBAL, HUNTER ALEXIS
DOOLEY AND JACOB VERNON
HARDY,

Respondents.

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Case No.: 89958

**BRIEF OF AMICUS CURIAE FOR CITY OF LAS VEGAS
IN SUPPORT OF APPELLANT**

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INTEREST OF AMICUS

The City of Las Vegas is a political subdivision of the State of Nevada, and may file a brief without the consent of the parties or leave of the court pursuant to NRAP 29(a).

Effective July 1, 2022, the legislature enacted NRS 174.4849 mandating that courts hold pretrial release hearings within 48 hours after a person has been taken into custody. Subsequently, the City of Las Vegas through the Las Vegas Municipal Court has been required to hold pretrial release hearings during non-judicial days.

The amicus has a compelling interest in determining whether the legislature can mandate court operations during non-judicial days. This Amicus Brief supports Appellant's argument that NRS 178.4849 is unconstitutional due to its violation of the separation of powers doctrine, an unconstitutional encroachment on the court's inherent powers and its conflict with Nevada Constitution Article 1, Section 8A (Marsy's Law).

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ARGUMENT

I.

NRS 178.4849 UNCONSTITUTIONALLY INFRINGES ON THE JUDICIARY'S AUTHORITY TO GOVERN CRIMINAL PROCEDURE

In passing NRS 178.4849 the legislature overreached and violated the separation of powers doctrine by imposing procedural rules that override the judiciary's authority to regulate criminal proceedings.

Article 3, Section 1 of the Nevada Constitution provides:

“The powers of the Government of the State of Nevada shall be divided into three separate departments,--the Legislative, -- the Executive, and the Judicial; and no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except in cases expressly provided in this constitution.”

This clause establishes a separation of powers, which strictly prohibits one branch of government from usurping or unduly interfering with the functions of another. In Galloway v. Truesdell, this Court held that ““Judicial Power” is the capability or potential capacity to exercise a judicial function” with the “authority to hear and determine justiciable controversies.” 83 Nev. 13, 20, 422 P.2d 237, 242 (1967). Under this doctrine, each branch of government is considered to be co-equal with inherent powers to administer its own affairs. Blackjack Bonding v. City of Las Vegas Mun. Ct., 116 Nev. 1213, 1218, 14 P.3d 1275, 1279 (2000).

This Court has also held that legislative interference in criminal procedure regulation is unconstitutional. See State v. Second Jud. Dist. Ct. ex rel. Cnty. of Washoe, 116 Nev. 953, 11 P.3d 1209 (2000)(finding that the statute could not limit the Supreme Court’s inherent authority to regulate criminal procedures under the doctrine of separation of powers).

However, NRS 178.4849 imposes specific timelines and procedural mandates regarding bail hearings that conflict with the Nevada Supreme Court’s decision in Valdez-Jimenez v. Eight Judicial Jud. Dist. Ct. in & for Cnty of Clark, 136 Nev. 155, 460 P.3d 976 (2020)(requiring a “prompt” individualized hearing after an arrest when seeking bail) and the Rule 4 of Nevada Rules of Criminal Practice, which states in pertinent part:

1. Defendant charged by information.
 - (A) If the defendant has been charged by information, and
 - (i) is not under sentence of imprisonment in the custody of the Nevada Department of Corrections at the time of arrest; and
 - (ii) the defendant has not previously been afforded a **prompt** adversarial hearing regarding bail or conditions of release regarding the charges or subject matter contained in the information;the court shall conduct a **prompt** adversarial hearing to determine whether detention is warranted and fix appropriate conditions for the defendant’s release from custody or fix appropriate bail.

(Emphasis Added)

The Court has determined both in Valdez-Jimenez and in the Nevada Rules of Criminal Procedure that a “prompt adversarial hearing” is required but elected not

to designate an exact timeline. By establishing a set timeline, NRS 178.4849 overrides judicial authority and contradicts the judiciary's rules.

II.

LEGISLATIVE TIMELINES FOR JUDICIAL ACTION VIOLATE THE SEPARATION OF POWERS

The strict time period mandated by NRS 178.4849 requires judicial action within fixed period of time violating the separation of powers doctrine. In Lindauer v. Allen, this Court explicitly stated “[a]ny legislation undertaking to require judicial action within fixed periods of time is an unconstitutional interference by the legislature with a judicial function.” 85 Nev. 430, 434, 456 P.2d 851, 854 (1969).

However, NRS 178.4849 requires courts to conduct pretrial hearings within forty-eight (48) hours of arrest, regardless of the judicial calendar or discretion. This mandate undermines the judiciary's authority to appropriately calendar cases. It also conflicts with ADKT 0539, which assists with individualized custody determinations through judicially adopted rules, not fixed legislative timelines. Accordingly, as NRS 178.4849 requires a judicial action within a fixed period of time it is therefore unconstitutional.

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III.

NRS 178.4849 USURPS THE COURT'S EXCLUSIVE POWER TO SET ITS HOURS OF OPERATIONS

NRS 178.4849 violates the judiciary's inherent powers and independence by compelling courts to operate outside their prescribed hours. Pursuant to NRS 3.025, NRS 4.157 and NRS 5.021 the chief judge of the designated judicial district shall "prescribe the hours of the court." As noted in Blackjack Bonding v. City of Las Vegas Mun. Ct., 116 Nev. 1213, 14 P.3d 1275 (2000) "[w]hen the Legislature, by statute, authorizes the exercise of an inherent judicial power, the courts may acquiesce out of comity or courtesy; however, such statutes are merely legislative authorizations of independent rights already belonging to the judiciary." Such is the case here. Although NRS 3.025, NRS 4.157 and NRS 5.021 designate the chief judge as having sole responsibility for prescribing the hours of the court, that power already belongs to the judiciary.

NRS 178.4849 conflicts with this rule and authority by mandating pretrial release hearings during non-judicial days. These hearings require the presence of a judge, defense counsel and prosecuting attorneys outside the regular court hours prescribed by the chief judge. Although remote participation is permissible, the requirement to conduct hearings regardless of the court's schedule invades the judiciary's exclusive right to determine its operating hours and is therefore unconstitutional.

CONCLUSION

NRS 178.4849 oversteps legislative bounds, infringing on judicial powers and violating the separation of power doctrine. The statute further undermines judicial authority over court procedures and hours, disrupting the balance of powers between the three branches of government. Accordingly, this Court should find NRS 178.4849 unconstitutional.

Respectfully submitted, this 28 day of May, 2025.

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CERTIFICATE OF COMPLIANCE

I hereby certify that the brief complies with formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using MS Word in 14-point Times New Roman. I further certify that this brief complies with page- or type-volume limitations of NRAP 32(a)(7) because, excluding NRAP 32(a)(7)(C) it is proportionally spaced, has a typeface of 14 points or more and contains 1,367 words.

I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e), which requires every assertion in the brief regarding matters in the record to be supported by appropriate references to the record on appeal. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellant Procedure.

Dated this 28th day of May, 2025



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY AND AFFIRM that this document was filed electronically with the Nevada Supreme Court on May 20, 2025. A true and correct copy of the foregoing document was served via electronic service through the Court's electronic filing system per NEFCR 9 to the following:

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