

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
JAMES WALTER DEGRAFFENREID,
III; DURWARD JAMES HINDLE, III;
JESSIE REED LAW; MICHAEL JAMES
MCDONALD; SHAWN MICHAEL
MEEHAN; AND EILEEN A. RICE,
Respondents.

No. 89064

FILED

JAN 27 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

*ORDER GRANTING LEAVE TO FILE AMICUS CURIAE BRIEF
AND DENYING MOTION TO DISMISS
AND COUNTERMOTION TO STRIKE*

This is an appeal from a district court order dismissing a criminal complaint on venue/territorial jurisdiction grounds.

Nevada Attorneys for Criminal Justice has moved for leave to file an amicus curiae brief in support of respondents, explaining that it is a nonprofit group comprised of criminal defense attorneys who have an interest in how the court rules on the issues presented in this appeal and are able to provide insight on the practical implications of the State's venue theory for both private and public defenders. Having reviewed the unopposed motion, it is granted. Therefore, the October 17, 2024, amicus brief will be considered in resolving this appeal.

Respondents have moved to dismiss this appeal, arguing that, under preemption principles, Nevada courts lack subject matter jurisdiction over the prosecution of the charges against them. Appellant opposes the motion, asserting that it constitutes an improper sur-reply and countermoving to strike the motion and certain "irrelevant" facts in the

answering brief. Both the motion to dismiss and the countermotion to strike are fully briefed.¹

Having considered the parties' arguments, both the motion and the countermotion are denied. This court has jurisdiction over an appeal from a district court order granting a motion to dismiss a criminal case. NRS 177.015(1)(b). Accordingly, respondents have not demonstrated that this appeal must be dismissed for lack of jurisdiction. Instead, as the subject matter jurisdiction argument was raised in the answering brief and responded to in the reply, we agree with appellant that the motion's contents appear more in line with a sur-reply. Nevertheless, we decline to strike the motion—or the response thereto—at this time. We likewise decline to strike at this time the portion of the answering brief labelled "Other Facts," which respondents indicate they included to respond to appellant's "misrepresentations." This court will not consider irrelevant matters, NRAP 28(a)(7), and this ruling is subject to further review upon consideration of the merits.

It is so ORDERED.

Pickering, J.
Pickering

Cadish, J.
Cadish

Lee, J.
Lee

¹Respondents' November 6, 2024, motion for an extension of time to file a reply in support of their motion to dismiss is granted; the reply was thus timely filed on November 12, 2024, and corrected through an erratum filed that same day.

cc: Attorney General/Carson City
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