



IN THE SUPREME COURT OF THE STATE OF NEVADA

KATRINA GABRIELLE CARVALHO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90140

Appeal from a judgment of conviction, pursuant to jury verdict, of first-degree murder with the use of a deadly weapon. Second Judicial District Court, Washoe County; Egan K. Walker, Judge.

Reversed and remanded.

Karla K. Butko, Ltd., and Karla K. Butko, Verdi,
for Appellant.

Aaron D. Ford, Attorney General, Carson City; Christopher J. Hicks, District Attorney, and Amanda Sage, Appellate Deputy District Attorney, Washoe County,
for Respondent.

BEFORE THE SUPREME COURT, STIGLICH, CADISH, and LEE, JJ.

OPINION

By the Court, STIGLICH, J.:

Due process requires that a criminal “defendant be afforded a meaningful opportunity to present a complete defense.” *Hoagland v. State*, 126 Nev. 381, 386, 240 P.3d 1043, 1047 (2010) (citation modified). Improperly

removing a theory of defense from the jury's consideration is reversible error. *See Williams v. State*, 99 Nev. 530, 531, 665 P.2d 260 (1983). Here, appellant Katrina Carvalho was charged with murder with the use of a deadly weapon. At trial, she presented an alternative-suspect defense, arguing that the evidence supported that someone else committed the murder. During closing argument, defense counsel argued several times that the evidence against Carvalho "points equally" to Carvalho's sister. The district court interrupted argument, admonished and sanctioned defense counsel, and instructed the jury that it was not to consider whether the sister was guilty. We conclude that this was error.

Although it is improper to implore the jury to ignore the question of a defendant's guilt to determine the guilt or innocence of another person, the defendant may urge the jury to consider the possibility that an alternative suspect committed the charged crime as a means of raising reasonable doubt as to the defendant's guilt. The district court's statements to defense counsel and admonition to the jury effectively removed Carvalho's alternative-suspect defense theory from the jury's consideration, violating her right to due process. We therefore reverse the judgment of conviction and remand for a new trial before a different department.

FACTS AND PROCEDURAL HISTORY

This case stems from an argument between Carvalho, her sister Regina, and Regina's boyfriend Vintell Johnson. Carvalho and Regina were dropping Johnson off at his apartment complex after dinner when they all began to argue with each other. Several witnesses at the complex, including Johnson's friend Jeremiah Tate, heard the argument. Tate testified that Carvalho was in the driver's seat of a vehicle, Johnson was in the passenger's seat, and Regina was standing outside of the passenger's side. Tate

approached the trio and tried to defuse the situation; despite his efforts, Johnson exited the vehicle and shoved Regina in the face. Carvalho then exited the vehicle and stood close to her sister, at which point Johnson pushed her too. Tate moved to stand between the Carvalho sisters and Johnson, attempting to calm Johnson with his back turned to the Carvalhos. Tate looked over his shoulder to see Carvalho pointing a gun at them. Johnson said something to the effect of, “You going to shoot me?” Tate ran for cover behind a parked car. Seconds later he heard gunshots, followed by a car door slamming and a car speeding off. Johnson approached where Tate was hiding, said, “The bitch shot me,” and collapsed. Johnson was transported to the hospital and died less than an hour later as a result of three gunshot wounds to the back.

The State charged Carvalho with murder with the use of a deadly weapon for Johnson’s death. The first trial ended in a mistrial after witnesses disclosed new evidence on the seventh day of trial. During the second trial, the State introduced Regina’s prior testimony from a pretrial motion hearing on the admissibility of prior bad act evidence and consciousness of guilt evidence. This hearing preceded the first trial, and Regina testified to the events leading up to and following Johnson’s death. Carvalho’s counsel conducted a cross-examination consisting of four questions. When the State called Regina to testify at the second trial, she invoked her Fifth Amendment right against self-incrimination and refused to testify. The State also introduced Yaneth Gonzalez’s prior testimony from the first trial. Having relocated to another state, Gonzalez was experiencing mental health issues and was medically unable to travel to attend the second trial.

Carvalho’s theory of defense was that someone else shot Johnson. Throughout trial and in closing argument, defense counsel identified several

other suspects, including Regina, and highlighted the shortcomings of the police investigation. Defense counsel argued several times that the evidence incriminating Carvalho was equally inculpatory as to Regina. During closing arguments, the district court sustained the State’s two objections to this line of argument, admonishing counsel and instructing the jury that it was improper to speculate about whether Regina was guilty of shooting Johnson. The court then sua sponte interrupted counsel’s argument a third time and sanctioned defense counsel with a \$500 fine. The jury ultimately convicted Carvalho of first-degree murder with the use of a deadly weapon. She was sentenced to life in prison with the possibility of parole after 28 years. Carvalho appeals.

DISCUSSION

Carvalho challenges the judgment of conviction on three main grounds. First, Carvalho argues that the district court prevented defense counsel from arguing an alternative-suspect defense to the jury, violating her due process rights. Second, she argues that her speedy trial rights were violated. Finally, she contends that there was insufficient evidence to support her conviction.¹

The district court improperly removed Carvalho’s alternative-suspect theory of defense from the jury’s consideration

Carvalho argues that the district court’s admonishments and instructions to the jury “shut down” her defense and prevented counsel from arguing that someone else shot Johnson. Although she concedes that the jury

¹In light of our disposition, we need not address the other arguments Carvalho raises. See *Smith v. State*, 142 Nev., Adv. Op. 26, 587 P.3d 251, 257 n.1 (2026) (declining to address appellant’s remaining arguments in light of reversal on other grounds).

cannot be asked to determine whether an alternative suspect is guilty of shooting Johnson beyond a reasonable doubt, Carvalho argues that the jury could evaluate her guilt with reference to the possibility that someone else pulled the trigger. The State argues that the court properly stopped Carvalho from arguing facts not in evidence and that Carvalho was given sufficient leeway to argue that there were alternative suspects.²

Due process requires that a criminal “defendant be ‘afforded a meaningful opportunity to present a complete defense.’” *Hoagland*, 126 Nev. at 386, 240 P.3d at 1047 (quoting *California v. Trombetta*, 467 U.S. 479, 485 (1984)). Pursuant to that right, “defense attorneys must be permitted to argue all reasonable inferences from the facts in the record.” *Glover v. Eighth Jud. Dist. Ct.*, 125 Nev. 691, 705, 220 P.3d 684, 694 (2009) (quoting *United States v. Hoffman*, 964 F.2d 21, 24 (D.C. Cir. 1992)). Counsel may not, however, discuss facts not in evidence. *Id.* at 706, 220 P.3d at 694. Although a defendant can argue that “another committed the crime for which [the defendant] is tried,” *Dorsey v. State*, 96 Nev. 951, 954, 620 P.2d 1261, 1263 (1980), the defendant may not argue that someone else’s culpability should be considered rather than the defendant’s, *see Guy v. State*, 108 Nev. 770, 778, 839 P.2d 578, 583 (1992). The distinction is between pointing to evidence that a third party committed the offense to raise reasonable doubt about the defendant’s guilt and asking

²Carvalho also argues that the district court erred in correcting defense counsel’s statements of law on first-degree murder during closing argument. After review, we conclude that the district court properly sustained the State’s objection and corrected defense counsel’s misstatements. *See Scott v. State*, 92 Nev. 552, 556, 554 P.2d 735, 738 (1976) (holding that the court has authority to stop counsel from misstating the law).

the jury to consider whether a third party should be found guilty instead of evaluating the evidence against the defendant.

District courts have broad discretion to limit “the latitude allowed counsel in closing argument” to prevent improper argument. *Glover*, 125 Nev. at 704, 220 P.3d at 693. Thus, we review such limitations for an abuse of discretion. *Id.* If we conclude the district court abused its discretion in preventing defense counsel from arguing the theory of defense, we will reverse the conviction unless “the State demonstrates, beyond a reasonable doubt, that the error did not contribute to the verdict.” *Valdez v. State*, 124 Nev. 1172, 1189, 196 P.3d 465, 476 (2008).

Defense counsel began closing argument by stating that Carvalho was innocent and the police arrested the wrong person. Counsel argued that the State’s evidence as to Carvalho’s guilt applied equally to Regina, though he clarified that Regina was not on trial. The State objected, and the court admonished the jurors that they were “not to determine the guilt or innocence or speculate about the guilt or innocence of any other person” and that it was “improper argument to suggest that there’s another guilty party.” Defense counsel confirmed that Regina was not on trial but asked the jurors to keep in mind that the State’s theory of the case “appl[ied] to both” Carvalho and Regina. The State again objected when defense counsel argued, “So the question is, what reasonable inferences can you draw from the facts we had that would suggest that the Carvalho sisters were acting in self-defense, either themselves or each other?” The court sustained the objection and again instructed the jurors “not to speculate on whether or not Regina Carvalho has criminal liability in this case. It is appropriate to argue there is not proof against [Carvalho]. It is inappropriate to suggest that you should consider the

guilt or innocence of another person.” The district court then admonished defense counsel, “Don’t do it again. Please proceed.”

Defense counsel went on to argue that law enforcement failed to adequately investigate other suspects, including Regina. He argued that the chance police “arrested the correct Carvalho sister is 50, 50, because” the only eyewitness did not see the shooter and no other evidence definitively identified the shooter. Defense counsel again asserted that the evidence inculpatory of Carvalho “points equally” to Regina. At that point, the district court interrupted sua sponte and dismissed the jury. The district court then sanctioned defense counsel for improper argument, ordering him to pay \$500 for “fail[ing] to follow [the court’s] order for a third time” by asking the jury to speculate about Regina’s guilt. The district court warned defense counsel, “If you do it again, you’ll be subject to criminal contempt.” When defense counsel asked for guidance about what he could argue regarding other suspects, the district court responded:

So there’s a jury instruction, sir, that tells the jury they are not to speculate on the guilt or innocence of another person. After the stunt that you all pulled putting Regina Carvalho into this room knowing that she was going to say you have the wrong person and then blowing kisses at your client to argue three times in closing argument that the jury should speculate that Regina Carvalho is guilty is no coincidence and you and I both know it. You don’t need guidance. You need to follow the rules. Follow the jury instructions. That’s all the guidance you’ll get from me. Invite the jury in.

The district court then instructed the jury:

Jury instruction number 20 reads as follows: You are here to determine whether the defendant is guilty or not guilty from the evidence in this case. You are not called upon to determine whether any other person is

guilty or not guilty. So if the evidence in this case convinces you beyond a reasonable doubt of the defendant's guilt, you should so find, even though you may believe one or more persons are also guilty.

[Defense counsel] has three times asked you to speculate as to the guilt or innocence of Regina Carvalho. You may not do that. That [is] improper argument.

Defense counsel argued that police failed to investigate other suspects but did not mention Regina again.

We conclude that defense counsel permissibly argued an alternative-suspect defense and that the district court abused its discretion in preventing Carvalho from presenting that theory of defense. Defense counsel's argument consisted of reasonable inferences that someone other than Carvalho, specifically Regina, was the shooter. Tate testified that he saw Carvalho point a gun at him and Johnson, prompting Tate to take cover behind a nearby car. Approximately five seconds later, he heard gunshots. Gonzalez testified that she heard a commotion outside her apartment and looked outside to see Johnson and Regina arguing in the parking lot. She heard Johnson say, "Shoot me, shoot me," and then heard two or three shots. Because neither witness saw who shot Johnson, it is a reasonable inference that Regina, standing next to Carvalho according to Tate, took the gun from her and pulled the trigger.

Arguing that the evidence incriminated Regina as the shooter did not argue facts not in evidence, nor did it improperly ask the jurors to ignore the question of Carvalho's guilt and instead determine Regina's guilt. Rather, defense counsel argued that reasonable doubt about Carvalho's guilt was present because the evidence supported the conclusion that Regina, *instead of* Carvalho, shot Johnson.

While the instruction that the district court gave to the jury was legally correct, the subsequent statement that the jury “may not” “speculate as to the guilt or innocence of Regina Carvalho” was error. Coupled with the district court’s other instructions that the jury may not “consider the guilt or innocence of another person” and that “it [was] improper argument to suggest that there’s another guilty party,” the district court directed the jury to not even *consider* whether Regina might be the shooter. The court thus restricted the jury’s review of the evidence and invaded the province of the jury in excluding the prospect that Regina might have shot Johnson from its determination whether Carvalho was guilty of murder beyond a reasonable doubt. The court further emphasized its disfavor of contemplating Regina as the shooter by distinguishing Tate and permitting defense counsel to argue that “Tate is a possible shooter in this case.” In foreclosing Carvalho’s opportunity to present an alternative-suspect defense with respect to Regina, the district court abused its discretion when it limited closing argument.

We further conclude that this error likely contributed to the jury’s verdict and thus was not harmless. The district court shut down Carvalho’s argument three times, ultimately sanctioning defense counsel with a \$500 fine and refusing to provide defense counsel with guidance about permissible argument. These reprimands chilled Carvalho’s argument that Regina was an alternative suspect, evidenced by the fact that defense counsel did not mention Regina for the rest of closing argument. Because the court’s admonishments effectively removed Carvalho’s primary theory of defense from the jury’s deliberation, we reverse the judgment of conviction and remand for a new trial. Although we reverse on this ground, we address several other claims of error and conclude that they lack merit such that Carvalho has not shown that those grounds bar retrial.

Carvalho's speedy trial rights were not violated

Carvalho argues that her speedy trial rights were violated because of a two-year delay in bringing the case to trial. The State argues that Carvalho cannot allege unconstitutional delay when such delay was defense-driven. Moreover, the State argues that Carvalho cannot show that her case was prejudiced by the delay.

The United States Supreme Court outlined a four-point balancing test to determine whether a defendant's constitutional speedy trial right has been violated: "[1] whether delay before trial was uncommonly long, [2] whether the government or the criminal defendant is more to blame for that delay, [3] whether, in due course, the defendant asserted his right to a speedy trial, and [4] whether he suffered prejudice as the delay's result." *Doggett v. United States*, 505 U.S. 647, 651 (1992); see *Barker v. Wingo*, 407 U.S. 514, 530 (1972). The second factor "is the focal inquiry in a speedy trial challenge." *Sunseri v. State*, 137 Nev. 562, 564-65, 495 P.3d 127, 131 (2021) (citation modified). Where delays "[a]re either attributable to [the defendant] or intended to preserve his constitutional rights," the second factor weighs against finding a violation. *Duckket v. State*, 142 Nev., Adv. Op. 9, 583 P.3d 241, 248 (2026); *Vermont v. Brillon*, 556 U.S. 81, 90-91 (2009) (indicating "delay caused by the defendant's counsel is also charged against the defendant" (citation modified)).

Here, two years passed between Carvalho's arraignment and trial resulting in conviction, which is presumptively prejudicial. See *Sunseri*, 137 Nev. at 564, 495 P.3d at 131 (holding that delays longer than one year are presumptively prejudicial). Four delays contributed to the two-year period. The first was a defense continuance request for more time to prepare. The second reason for delay was Carvalho's request for new counsel, which she

acknowledged would result in delay. The third delay was caused by a defense-requested mistrial. Finally, the fourth delay was a result of a scheduling conflict with the court's calendar. Three out of the four delays are directly attributable to Carvalho, and the fourth was a scheduling conflict, weighing substantially against Carvalho. Moreover, these delays also show that Carvalho acted inconsistently with her assertion of her speedy trial rights. And, although Carvalho was prejudiced by the unavailability of two witnesses, such prejudice does not outweigh the fact that the delays were substantially more attributable to Carvalho. We therefore discern no constitutional speedy trial violation.

Carvalho's assertion that her statutory speedy trial rights were violated under NRS 178.556(1) is equally unavailing. "If the defendant is responsible for the delay of trial beyond the 60 day limit, he may not complain." *Oberle v. Fogliani*, 82 Nev. 428, 430, 420 P.2d 251, 252 (1966), *superseded by statute on other grounds, as stated in Clow v. Sheriff*, 96 Nev. 605, 606, 614 P.2d 535, 535-36 (1980). Since Carvalho caused her delays, we determine there was no statutory speedy trial violation.

Sufficient evidence supports the conviction

Carvalho next argues insufficient evidence supports the conviction for first-degree murder with the use of a deadly weapon. We evaluate sufficiency of the evidence claims by determining "whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Barber v. State*, 131 Nev. 1065, 1071, 363 P.3d 459, 464 (2015) (citation modified). In making this determination, this court will not reweigh the evidence or reconsider the credibility of the witnesses. *Mason v. State*, 118 Nev. 554, 559, 51 P.3d 521, 524 (2002). If the State presented insufficient

evidence to support a conviction, the “defendant is entitled to acquittal.” *Stephans v. State*, 127 Nev. 712, 721, 262 P.3d 727, 734 (2011).

First-degree murder is defined under Nevada law as “the unlawful killing of a human being,” NRS 200.010, which is “willful, deliberate, and premeditated,” NRS 200.030(1)(a). The legislature has explicitly recognized firearms as deadly weapons. NRS 193.165(1). Between Tate’s testimony, corroborated by other witnesses, and Carvalho’s flight to California after the shooting, evidencing consciousness of guilt, we conclude that sufficient evidence supports the conviction. Viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could find Carvalho shot Johnson with the intent to kill and premeditated in the moments between pointing the gun at Johnson and firing at his back three times.

Because we reverse for error in the trial process, as opposed to a speedy trial violation or insufficiency of the evidence, we conclude that the appropriate remedy here is remand for a new trial. *Burks v. United States*, 437 U.S. 1, 15 (1978).

CONCLUSION

A criminal defendant has a due process right to present their theory of defense. Although a defendant is not permitted to redirect the jury’s determination from whether the defendant is guilty to whether another person is guilty, a defendant may argue an alternative-suspect defense to raise reasonable doubt as to the defendant’s guilt. Here, Carvalho’s counsel argued reasonable inferences that other people, including her sister Regina, could have shot Johnson based on the evidence presented. Yet the district court shut down that argument and explicitly instructed the jurors not to consider whether Regina was the person who shot Johnson in evaluating Carvalho’s guilt. This was an abuse of discretion. Because Carvalho was impermissibly

prevented from presenting her theory of defense during closing argument, we reverse the judgment of conviction and remand for a new trial before a different department. *See Williams v. Second Jud. Dist. Ct.*, 142 Nev., Adv. Op. 5, 583 P.3d 223, 229-30 (2026) (reassigning matter to a different judge under this court's supervisory authority in light of serious concerns raised by the district judge's determinations).



Stiglich, J.

We concur:



Cadish, J.



Lee, J.