

IN THE JUSTICE COURT OF RENO TOWNSHIP  
COUNTY OF WASHOE, STATE OF NEVADA

**FILED**  
29 Apr 2020 8:51 am  
Reno Justice Court

IN THE ADMINISTRATIVE MATTER OF:  
PROCEEDINGS TO ESTABLISH BAIL  
AND OTHER CONDITIONS OF PRETRIAL  
RELEASE

**ADMINISTRATIVE ORDER 2020-5**

WHEREAS, on April 9, 2020, the Nevada Supreme Court issued an opinion in *Valdez-Jimenez v. Eighth Judicial Dist. Court in & for Cty. of Clark*, 136 Nev. Adv. Op. 20 (2020) setting forth constitutionally required due process protections for pretrial detainees in criminal proceedings in the State of Nevada.

WHEREAS, pursuant to *Valdez-Jimenez*, “when the State requests bail to be set ... the defendant is entitled to a prompt individualized hearing on his or her custody status.” 136 Nev. Adv. Op. 20 at 18.

WHEREAS, pursuant to *Valdez-Jimenez*, a judge, “may impose bail only if the State proves by clear and convincing evidence that it is necessary.” 136 Nev. Adv. Op. 20 at 3.

WHEREAS, pursuant to *Valdez-Jimenez*, “a defendant who remains in custody after arrest is entitled to an individualized hearing at which the State must prove by clear and convincing evidence that bail, rather than less restrictive conditions, is necessary to ensure the defendant’s appearance at future court proceedings or to protect the safety of the community.” 136 Nev. Adv. Op. 20 at 3.

WHEREAS, pursuant to *Valdez-Jimenez*, “[a]t the hearing, the defendant shall have the right to be represented by counsel and shall be afforded the right to testify and present evidence.” 136 Nev. Adv. Op. 20 at 18.

WHEREAS, pursuant to *Valdez-Jiminez*, “the good cause requirement in NRS 178.4851(1) is unconstitutional” . . . because it, “relieves the State of its burden of proving that bail is necessary to ensure the defendant's appearance or protect the community.” 136 Nev. Adv. Op. 20 at 18.

WHEREAS, pursuant to *Valdez-Jiminez*, at the conclusion of the hearing the “court must state its findings and reasons for the bail decision on the record.” 136 Nev. Adv. Op. 20 at 19.

WHEREAS pursuant to *Valdez-Jiminez*, “when the State requests bail . . . the defendant is entitled to a prompt individualized hearing.” 136 Nev. Adv. Op. 20 at 18.

WHEREAS, pursuant to *Valdez-Jiminez*, such a hearing should occur “at the initial appearance or arraignment.” 136 Nev. Adv. Op. 20 at 15.

WHEREAS, NRS 171.178 requires defendants be brought before the court “without unnecessary delay,” after their arrest for an initial appearance.

WHEREAS, NRS 171.178 requires defendants be released on bail “with the least possible delay,” after their arrest.

WHEREAS, most of the procedures mandated in *Valdez-Jimenez* are from the federal procedures on pretrial detention. “We find several protections identified by *Salerno* in the federal Bail Reform Act to be of particular importance in safeguarding against erroneous de facto detention orders.” 136 Nev. Adv. Op. 20 at 18 citing *United States v. Salerno*, 481 U.S. 739 (1987).

WHEREAS, pursuant to Rule 5 of the Federal Rules of Criminal procedure, “[a] person making an arrest within the United States must take the defendant without unnecessary delay before a magistrate judge,” for an initial appearance and a detention hearing.

WHEREAS, 18 U.S. Code § 3142(f) requires the detention hearing “be held immediately upon the person’s first appearance before the judicial officer unless that person, or the attorney for the Government, seeks a continuance.”

WHEREAS, the Reno Justice Court currently sets a criminal defendant's bail at the initial appearance as required by NRS 171.178.

Accordingly, and good cause appearing therefor, IT IS HEREBY ORDERED:

When the State will be requesting bail for a particular defendant they must do so at the initial appearance of the defendant in the Reno Justice Court.

When the State makes a request for bail, "the State must prove by clear and convincing evidence that bail, rather than less restrictive conditions, is necessary to ensure the defendant's appearance at future court proceedings or to protect the safety of the community." *Valdez-Jiminez*, 136 Nev. Adv. Op. 20 at 3.

At the initial appearance the defendant, with the assistance of counsel, "shall be afforded the right to testify and present evidence." *Valdez-Jiminez*, 136 Nev. Adv. Op. 20 at 18.

Consistent with the procedures in the Bail Reform Act, the Court may grant a brief continuance to either party for good cause shown.

Consistent with the procedures in the Bail Reform Act, a rehearing of the detention decision will generally only be granted when the judicial officer that conducts the hearing finds, based upon an affidavit or declaration, there exists new evidence not known at the time of the hearing that has a material bearing on the custody determination.

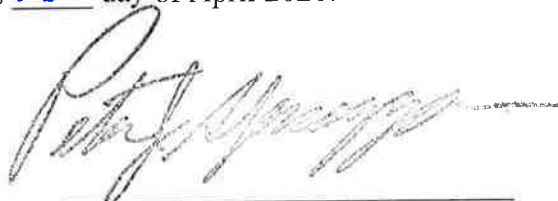
The procedures in this Order become mandatory on May 1, 2020.

**IT IS SO ORDERED.**

Dated this 28<sup>th</sup> day of April 2020.



Judge Derek Dreiling  
Justice of the Peace, Dept. 1  
Reno Justice Court



Judge Pete Sferrazza  
Justice of the Peace, Dept. 2  
Reno Justice Court



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Judge Ryan K. Sullivan  
Chief Justice of the Peace, Dept. 3  
Reno Justice Court



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Judge Scott E. Pearson  
Justice of the Peace, Dept. 4  
Reno Justice Court



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Judge David Clifton  
Justice of the Peace, Dept. 5  
Reno Justice Court



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Judge Pierre Hascheff  
Justice of the Peace, Dept. 6  
Reno Justice Court