

Daily Journal
Missed Waivers for Preliminary Hearings Dismantle Major Criminal Case
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State prosecutors say they ‘fully intend’ to pursue a new complaint against a megachurch leader accused of child sexual abuse.

One of the state’s most high-profile criminal prosecutions is in limbo after an appellate panel ordered the dismissal of a 17-count complaint against an international religious leader accused of sexually abusing children.

The 2nd District Court of Appeal ruled this week Naason Joaquin Garcia, head of the Mexico-based church La Luz Del Mundo or The Light of the World, didn’t receive a preliminary hearing within the legally required time frame, part of a tangled procedural history that included Garcia twice waiving scheduling requirements, but also not doing so on two crucial occasions.

Garcia, however, remains jailed without bail, and the state attorney general’s office, which detailed the case against him in a headline-grabbing news conference last year, emphasized Wednesday the ruling doesn’t take effect until 30 days after its Tuesday issuance.

“In addition, the decision did not address the merits of the case and does not limit our ability to pursue it further, which we fully intend to do,” according to an email from the AG’s media relations office.

Garcia’s lawyer, Alan J. Jackson of Werksman Jackson & Quinn LLP, said the appellate panel “struck a major blow for justice by ordering the dismissal of a case that never should have been brought.”

“In their zeal to secure a conviction at any cost, the Attorney General has sought to strip Mr. Garcia of his freedom without due process by locking him up without bail on the basis of unsubstantiated accusations by unnamed accusers and by denying him his day in court,” Jackson said in an email Wednesday.

The trial court error at the center of the ruling involves a three-day delay in a prelim that uncovered an earlier prelim delayed without a waiver.

Garcia never agreed to delay his prelim beyond the 10 required court days, as governed by state Penal Code Section 859b, after he was arraigned on the current amended complaint in July.

After he was arraigned on the current amended complaint in July, Garcia waived time on Aug. 2, 2019, authorizing a hearing to take place on Aug. 23 or within 30 days there after. But a discovery dispute erupted at the Aug. 23 hearing that spilled over to the prelim Los Angeles County Superior Court Judge Teresa T. Sullivan set for Sept. 19. It included contempt findings and sanctions against the prosecuting deputy attorney generals that Sullivan later rescinded, and it led to the prelim being pushed to Sept. 23, the final day of the 30-day deadline. Judge George

G. Lomeli was to handle the prelim then, but Jackson, who had taken over the case about a week earlier, told him Garcia was "not in a position to make a readiness announcement, vis-à-vis the preliminary hearing" due to "some ongoing outstanding very significant discovery issues," according to the ruling. *Garcia v. Superior Court*. B302119 (Cal. App. 2nd Dist., April 7, 20210).

Still, Jackson also emphasized Garcia would not waive time, saying: "I did not make the representation that we're not ready and I'm not implying or asking for a continuance. No. My client is sitting in jail on a no bail hold. He has a right to his legal and constitutional preliminary hearing today. Period." Jackson added, "Any continuance beyond today's date would be over Mr. Garcia's objection," according to the opinion.

Lomeli rescheduled the hearing to Sept. 26, but Jackson filed a motion to dismiss that argued Garcia was illegally denied a prelim within 10 court days of his July arraignment, as well as improperly denied the Sept. 23 prelim. Lomeli denied the motion, ruling Jackson's comments about ongoing discovery problems and not being able to make a readiness announcement were "an implicit waiver by the defendants to proceed to preliminary hearing within the required time period."

Los Angeles Superior Court Judge William C. Ryan denied a writ petition over Lomeli's ruling in October, which is what this week's appellate decision concerned. Ryan determined Garcia's waiver of his prelim scheduling requirement after his first arraignment on the initial complaint in June also applied to his July arraignment on the amended complaint, but the appellate panel, which heard oral argument March 5, disagreed.

"Under the plain language of section 859b, Garcia's 'arraignment' and 'plea' on the amended complaint constituted a triggering event that entitled him to a preliminary hearing within 10 court days of the arraignment and plea, unless he personally waived his right to a preliminary hearing within that 10-day period," according to the opinion, written by Justice Laurie D. Zelon.

"Accordingly, as of July 31, 2019, the amended complaint was subject to mandatory dismissal."

Justices Dennis M. Perluss and Gail Ruderman Feuer concurred.

Garcia's church praised the ruling in a news release Tuesday that invited his estimated 1 million followers to "pray for all of the authorities" and called for "a special consecration in our homes" that night.

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