

2010 WL 3659619

Unpublished Disposition

Only the Westlaw citation is currently available.

An unpublished order shall not be regarded as precedent and shall not be cited as legal authority. SCR 123. Supreme Court of Nevada.

John LAUGHLIN, Appellant,

v.

The STATE of Nevada, DEPARTMENT OF MOTOR VEHICLES, Respondent.

No. 56540. | Sept. 20, 2010.

Synopsis

Background: Driver petitioned for review of revocation by Department of Motor Vehicles (DMV) of his driving privileges. The Eighth Judicial District Court, Clark County, [Mark R. Denton, J.](#), denied petition. Driver appealed.

Holding: The Supreme Court held that ALJ did not improperly act as prosecutor.

Affirmed.

West Headnotes (1)

[1] [Automobiles](#)

 [Administrative Procedure in General](#)

ALJ did not improperly act as prosecutor in review of revocation of driving privileges by Department of Motor Vehicles (DMV), although he retrieved correct calibration report; ALJ's retrieval of report was to rectify an obviously mistaken oversight and did not cross the line into the prosecutorial and adversarial realm.

[Cases that cite this headnote](#)

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Opinion

ORDER OF AFFIRMANCE

*1 This is an appeal from a district court order denying a petition for judicial review of a Department of Motor Vehicles action revoking appellant's driving privileges. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.

On appeal, appellant John Laughlin argues that at his hearing before respondent State of Nevada, Department of Motor Vehicles (DMV), the administrative law judge improperly acted as both prosecutor and judge in violation of [NRS 233B.122\(1\)](#) by presenting critical evidence. Laughlin further contends that DMV hearings are not meaningful and violate due process because the administrative law judges are effectively under the control of the director of the DMV.

Regarding Laughlin's argument that the administrative law judge improperly acted as prosecutor, having reviewed the parties' briefs and the record on appeal, we conclude that the retrieval of the correct [NRS 484C.240](#) calibration report to rectify an obviously mistaken oversight, ultimately did not "[cross] the line into the prosecutorial and adversarial realm." *State, Dep't Mtr. Vehicles v. Thompson*, 102 Nev. 176, 178, 717 P.2d 580, 581 (1986). Secondly, regarding Laughlin's DMV-control argument, this court rejected a virtually identical argument, albeit in the context of cases before the Labor Commissioner, in *City Plan Development v. State, Labor Commissioner*, 121 Nev. 419, 428-30, 117 P.3d 182, 188-89 (2005). We find the conclusions reached in *City Plan* equally applicable here and therefore conclude that this argument lacks merit. Accordingly, we

ORDER the judgment of the district court AFFIRMED.