

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN LAUGHLIN,
Appellant,
vs.
THE STATE OF NEVADA,
DEPARTMENT OF MOTOR VEHICLES,
Respondent.

No. 56540

FILED

SEP 20 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

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.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Mark R. Denton, District Judge
Law Offices of John G. Watkins
Attorney General/Carson City
Attorney General/Transportation Division/Las Vegas
Eighth District Court Clerk