

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BANESSA CABALLERO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70355

FILED

MAR 23 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Appellant Banessa Caballero appeals from a judgment of conviction entered pursuant to a jury verdict of attempted murder with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

Caballero claims the district court erred by denying her motion for a mistrial because a statement made by a potential juror deprived her of her right to a fair trial. We review a district court's ruling on a motion for a mistrial for an abuse of discretion. *Ledbetter v. State*, 122 Nev. 252, 264, 129 P.3d 671, 680 (2006).


The trial transcript reveals the district court asked the potential jurors during voir dire if any of them were acquainted with the defendant. One of the potential jurors, who was not seated on the jury, responded, "I am a nurse at the Clark County Detention Center, and I may have passed medication to her." Caballero subsequently moved for a mistrial; she argued the potential juror's response was prejudicial because it suggested she was in custody and on medication.


The district court found the potential juror's comment was nonspecific in that it merely indicated she worked at a place where


Caballero may have been located and may have given her some type of medication. The district court further found the potential prejudicial impact of the comment was minimal because it appeared there was going to be some admissible evidence regarding the fact Caballero had been at the Clark County Detention Center.¹ And the district court offered to consider any curative instructions Caballero thought appropriate.

We conclude from this record the district court did not abuse its discretion by denying Caballero's motion for a mistrial, and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Eric Johnson, District Judge
Law Office of Benjamin Nadig, Chtd.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹The parties had stipulated to the admission of Caballero's jailhouse phone calls.