

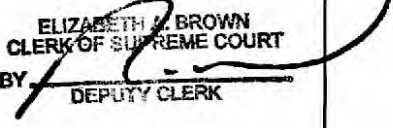
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ARMANDO MARTIN JAUREGUI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 76823-COA

**FILED**

DEC 10 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Armando Martin Jauregui appeals from a judgment of conviction entered pursuant to a jury verdict of sex offender failure to notify appropriate agencies of change of address, second offense. Second Judicial District Court, Washoe County; Jerome M. Polaha, Judge.

Jauregui claims the district court abused its discretion by denying his motions in limine to exclude evidence that he was a sex offender and he was subject to temporary protection orders because this evidence was unfairly prejudicial. Relying upon *Old Chief v. United States*, 519 U.S. 172 (1997), he argues that the name and nature of his prior conviction were inadmissible and he asserts that he “offered to stipulate to the element requiring the prior conviction and sought to keep out the record of the conviction and any reference to ‘sex offender.’” He also asserts that the temporary-protection-order evidence was more prejudicial than probative because he put on a viable defense that he still considered his wife’s house as his home.

“We review a district court’s decision to admit or exclude evidence for an abuse of discretion.” *McLellan v. State*, 124 Nev. 263, 267, 182 P.3d 106, 109 (2008). “An abuse of discretion occurs if the district

19-50013

court's decision is arbitrary or capricious or if it exceeds the bounds of law or reason." *Crawford v. State*, 121 Nev. 744, 748, 121 P.3d 582, 585 (2005) (internal quotation marks omitted). With few exceptions, the State "is entitled to prove its case by evidence of its own choice, or, more exactly, [ ] a criminal defendant may not stipulate or admit his way out of the full evidentiary force of the case as the [State] chooses to present it." *Old Chief*, 519 U.S. at 186-87; see also *Edwards v. State*, 122 Nev. 378, 381-84, 132 P.3d 581, 583-85 (2006).

The record demonstrates the district court conducted a hearing on Jauregui's motions in limine and made the following decisions: The *Old Chief* exception to the general rule that the State is entitled to prove its case by evidence of its own choice did not apply because this case did not involve a prosecution under a felon-in-possession statute.<sup>1</sup> And NRS 48.035 and NRS 48.045 did not bar evidence of Jauregui's sexual offense because the evidence was necessary to prove an element of the crime and was not being submitted to prove Jauregui's bad character or show he acted in conformity therewith. Therefore, the decision to accept Jauregui's offer to stipulate to an element of the offense was left to the discretion of the State. The record further demonstrates the district court decided the temporary protection order was a matter of public record in a parallel case and may be judicially noticed; however, the evidence of domestic violence that gave rise to the temporary protection order was unfairly prejudicial and could not be admitted in the instant case.

We conclude from this record that the district court did not abuse its discretion by denying Jauregui's motions in limine to exclude

---

<sup>1</sup>See *Old Chief*, 519 U.S. at 183 n.7 (limiting its holding "to cases involving proof of felon status").

evidence that he was a sex offender and that he was subject to a temporary protection order. We note Jauregui's legal status as a "sex offender" was an essential element of the crime that the State was required to prove beyond a reasonable doubt, *see* NRS 179D.470(1); NRS 179D.550(1)(d), and the evidence that a temporary protection order prohibited Jauregui from being near the house he claimed as his residence was relevant to proving that he was not in fact living in that house, *see* NRS 48.015; NRS 48.025. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Jerome M. Polaha, District Judge  
Law Office of Thomas L. Qualls, Ltd.  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk