



IN THE SUPREME COURT OF THE STATE OF NEVADA

ZION JUSTIN CASTILLO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 89859

Appeal from an amended judgment of conviction, pursuant to a guilty plea, of robbery. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

Affirmed.

Nancy M. Lemcke, Public Defender, and Deanna M. Keane, Deputy Public Defender, Clark County,
for Appellant.

Aaron D. Ford, Attorney General, Carson City; Steven B. Wolfson, District Attorney, and Karen Mishler, Chief Deputy District Attorney, Clark County,
for Respondent.

BEFORE THE SUPREME COURT, HERNDON, C.J., and BELL and STIGLICH, JJ.

OPINION

By the Court, BELL, J.:

This appeal challenges the district court's amendment of a judgment of conviction to remove a sentencing provision imposed by a predecessor judge. Zion Justin Castillo pleaded guilty to robbery pursuant to

a plea agreement. Over the State's objection, at sentencing the district court included a "drop-down" provision in the judgment of conviction, which allowed Castillo to plead guilty to a lesser offense upon successful completion of probation. The case was later transferred to a different department within the district court. After successfully completing probation, Castillo sought to withdraw the guilty plea to robbery and plead to the lesser offense under the drop-down provision. The successor judge determined that the inclusion of the drop-down provision in Castillo's sentence constituted legal error. Based on that determination, the district court denied Castillo's motion to withdraw the robbery plea and amended the judgment of conviction to remove the drop-down provision.

Castillo argues that the district court lacked jurisdiction to amend the judgment of conviction to remove a provision entered by a judge previously assigned to the case. In support, Castillo relies on *Rohlfing v. Second Judicial District Court*, 106 Nev. 902, 803 P.2d 659 (1990). In *Rohlfing*, this court held that the equal and coextensive jurisdiction of the district courts prohibited one judge from declaring void an action taken by another judge in the same matter. *Id.* at 906-07, 803 P.2d at 662-63. We overrule *Rohlfing* to the extent it suggests a jurisdictional limit on a successor judge revisiting an earlier ruling in the same case. Whether a district court judge may modify a ruling by a predecessor in the same case depends instead on the doctrine of the law of the case and exceptions to that doctrine. Looking to the law-of-the-case doctrine, we conclude that the district court did not abuse its discretion in removing the drop-down provision from the judgment of conviction and denying Castillo's request to withdraw the robbery plea. We affirm the amended judgment of conviction.

FACTS AND PROCEDURAL HISTORY

On September 4, 2019, Castillo and an unknown coconspirator entered a Metro PCS store. While one man held an employee in a back room with a firearm, the other took money from the cash register. The State charged Castillo with various offenses including burglary, robbery, and first-degree kidnapping, all with the use of a deadly weapon. Castillo, who had no prior felony convictions, ultimately entered into a guilty plea agreement. In exchange for Castillo's guilty plea to robbery, the State agreed to make no recommendation at sentencing.

Castillo appeared for sentencing, and the district court entered a suspended prison sentence of 24 to 60 months and placed Castillo on probation for a period not to exceed 36 months. Over the State's objection, the court also included a "drop-down" provision in the judgment of conviction. The provision permitted Castillo to withdraw the robbery plea and instead plead guilty to gross misdemeanor conspiracy if Castillo successfully completed probation with an honorable discharge. Such a provision was not contemplated by the parties' plea negotiations.

After sentencing, the case was administratively reassigned to another judge. The Department of Parole and Probation later petitioned the district court to discharge Castillo from probation. Initially, the district court dishonorably discharged Castillo due to a purported failure to comply with probation conditions. Shortly after, Castillo provided proof that he had fulfilled the conditions and moved for reconsideration. Castillo sought an honorable discharge from probation and leave to withdraw the felony robbery plea consistent with the drop-down provision. The district court granted an honorable discharge on reconsideration but denied the remainder of the motion. Additionally, the district court amended the judgment of conviction to

remove the drop-down provision, determining that its inclusion constituted legal error. Castillo appealed.

DISCUSSION

Castillo raises a single issue on appeal—whether the second judge acted outside of the bounds of judicial authority by removing the drop-down provision from the judgment of conviction. The parties’ appellate briefs focus on a district court judge’s jurisdiction to overrule a decision by a predecessor judge in the same case. We first address whether this issue is properly governed by jurisdictional limits, a question of law that we review de novo. *Cf. State v. Frederick*, 129 Nev. 251, 254, 299 P.3d 372, 375 (2013) (treating an issue about the jurisdiction of justices of the peace serving as district court masters as a “pure question[] of law” subject to de novo review). We then address how the law-of-the-case doctrine applies to the facts presented here.

A district court judge’s authority to modify or overrule a predecessor judge’s decision is not a matter of jurisdiction but is instead governed by the law-of-the-case doctrine

Castillo contends that a district court judge lacks jurisdiction to review the decision of another district court judge in the same case. This argument relies heavily on the holding in *Rohlfing*. There, a district court judge declared a mistrial after counsel disregarded an order prohibiting questioning witnesses about the defendant’s competency. *Rohlfing*, 106 Nev. at 903, 803 P.2d at 660. The defendant moved to dismiss, arguing that double jeopardy precluded retrial. *Id.* at 904, 803 P.2d at 660-61. A different judge heard and granted the motion to dismiss. *Id.* at 904, 803 P.2d at 661. The initial trial judge then sua sponte entered an order declaring the dismissal order void. *Id.* A third judge, a successor in office, refused to vacate the order voiding dismissal and issued a warrant for the defendant’s arrest. *Id.* On appeal, we considered this judicial fracas in the context of the “equal and

coextensive jurisdiction” of the district courts. *Id.* at 906, 803 P.2d at 662; *see also* NRS 3.220 (providing that district court judges “shall possess equal coextensive and concurrent jurisdiction and power”). We concluded that the initial trial judge exceeded his jurisdiction by attempting to vacate the dismissal order entered by the properly assigned second judge. *Rohlfing*, 106 Nev. at 907, 803 P.2d at 663.

A jurisdictional framing was appropriate in *Rohlfing*, where a judge attempted to intervene and resolve an issue in a case to which the judge was no longer assigned. *See also Warden v. Owens*, 93 Nev. 255, 256, 563 P.2d 81, 82 (1977) (holding that the First Judicial District Court lacked jurisdiction to grant postconviction relief by vacating the Eighth Judicial District Court’s judgment of conviction). But subsequent application of *Rohlfing* has suggested a bright-line rule, under which the successor district judge lacks the authority to modify a ruling by an earlier judge regardless of the circumstances. *See, e.g., State v. Beaudion*, 131 Nev. 473, 477, 352 P.3d 39, 42 (2015) (“[O]ne district judge may not directly overrule the decision of another district judge on the same matter in the same case.”); *Colwell v. State*, 112 Nev. 807, 813, 919 P.2d 403, 407 (1996) (noting that “a true example of conflicting jurisdiction” involves one district court judge’s “attempts to overrule another district judge’s *prior* determination”). Such a broad application of a jurisdictional limitation diverged from the approach historically taken by this court.

As early as 1930, we concluded that a newly assigned judge was mistaken in believing that “he had no legal right, authority, or jurisdiction to hear” a motion for new trial where a then-retired judge had entered the judgment. *Lovelock Lands v. Lovelock Land & Dev. Co.*, 52 Nev. 140, 143, 283 P. 403, 403 (1930). We explained that a successor judge “can exercise the same

powers . . . as [the judge’s] predecessor could have done. The court remains the same, and the cha[n]ge of the incumbents cannot and ought not, in any respect, . . . injure the rights of [the] parties.” *Id.* at 144, 283 P. at 403-04.

Similarly, in *Moore v. City of Las Vegas*, 92 Nev. 402, 404, 551 P.2d 244, 245 (1976), we considered whether a successor district court judge could rehear a motion for summary judgment that had previously been denied by a judge who was not reelected. We acknowledged that a district court rule, intended to prevent judge shopping, proscribed rehearing but concluded that “[t]he animus of the rule [was] not offended where” the case was reassigned “by reason of some fortuitous event” outside the control of the parties, such as a judge’s retirement or the elective process.¹ *Id.* at 404-05, 551 P.2d at 246. Even so, we cautioned that a successor judge should rehear an issue “[o]nly in very rare instances in which new issues of fact or law are raised.” *Id.* at 405, 551 P.2d at 246; *see also* *Masonry & Tile Contractors Ass’n of S. Nev. v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997) (holding that visiting judge permissibly reconsidered deceased judge’s arbitrability determination where that decision was clearly erroneous).

We confirmed this approach recently in *Litchfield v. Tucson Ridge Homeowners Ass’n*, 140 Nev., Adv. Op. 57, 555 P.3d 267 (2024). In *Litchfield*, we started from the premise that a district court judge should generally refrain

¹Then-DCR 27, since renumbered as DCR 19, stated that “[w]hen an application or petition for any writ or order shall have been made to a district judge and . . . has been denied by such judge, the same application or motion shall not again be made to the same or another district judge, except upon consent in writing of the judge to whom the application or motion was first made.” *See also* EDCR 7.10(b) (stating that once a “district judge has . . . made any ruling, order or decision [in a case], no other judge may do any act or thing in or about such cause, proceeding or motion, unless upon the request of the [initial judge]”).

from reopening already decided issues. *Id.* at 270. We then identified the law-of-the-case doctrine as the appropriate framework for assessing a district court judge’s power to revisit an issue decided by a previous judge in the same case. *Id.* Under the law-of-the-case doctrine, the court’s decision must generally be followed in all later proceedings in the same case. *See Hsu v. County of Clark*, 123 Nev. 625, 629, 173 P.3d 724, 728 (2007). But a judge is “not absolutely barred from reconsidering a predecessor judge’s order.” *Litchfield*, 140 Nev., Adv. Op. 57, 555 P.3d at 270; *see also Hsu*, 123 Nev. at 630, 173 P.3d at 728 (acknowledging that the law of the case “merely expresses the practice of courts” and should not be understood as “a limit to [the court’s] power”). We cautioned, however, that reconsideration is not warranted “merely because the later judge disagrees with the first.” *Litchfield*, 140 Nev., Adv. Op. 57, 555 P.3d at 270; *see also United States v. Desert Gold Mining Co.*, 433 F.2d 713, 715 (9th Cir. 1970) (“[O]ne judge should not overrule another except for the most cogent reasons.”). Following federal guidance, we adopted three exceptions under which a judge may overrule the decision of a predecessor judge: where “(1) subsequent proceedings produce substantially new or different evidence, (2) there has been an intervening change in controlling law, or (3) the prior decision was clearly erroneous and would result in manifest injustice if enforced.” *Litchfield*, 140 Nev., Adv. Op. 57, 555 P.3d at 270-71 (quoting *Hsu*, 123 Nev. at 630, 173 P.3d at 729).

Litchfield, however, does not address the tension between our use of jurisdictional language in *Rohlfing* and our adoption of the more flexible law-of-the-case doctrine. To resolve that issue, we now expressly hold that a successor judge’s ability to revisit a ruling by a predecessor judge in the same case is not a question of jurisdiction. Rather, the question is correctly framed as a discretionary judicial practice that is sometimes necessary to ensure the

functioning of the courts. *See Castner v. First Nat'l Bank of Anchorage*, 278 F.2d 376, 379-80 (9th Cir. 1960) (highlighting the view that the rule prohibiting a latter judge from overruling a prior judge “rest[ed] upon principles of comity and uniformity to preserve the orderly function of the judicial process”). Application of the law-of-the-case doctrine in this context is consistent with the policy considerations underlying our prior decisions, as it promotes “judicial consistency, finality, and protection of the court’s integrity.” *Hsu*, 123 Nev. at 630, 173 P.3d at 728. Additionally, the law-of-the-case doctrine furthers fair administration of justice because a party’s access to accepted procedural remedies does not hinge on the happenstance of judicial retirement, death, or routine reassignment.

Accordingly, to the extent *Rohlfing* stated that a properly assigned successor judge lacks jurisdiction to revisit a predecessor judge’s decision in the same case, it is overruled. While the circumstances when a successor judge may modify a ruling by a previously assigned judge are rare, the three exceptions to the law-of-the-case doctrine adopted in *Litchfield* allow for reconsideration when appropriate. *See* 140 Nev., Adv. Op. 57, 555 P.3d at 270-71.

Amendment of the judgment of conviction was not an abuse of discretion

Turning to this case, we must determine whether any exception to the law-of-the-case doctrine permitted the second judge to amend the judgment of conviction to remove the drop-down provision entered by the sentencing judge. “We review de novo whether the law-of-the-case doctrine applies but review a district court’s application of the doctrine for an abuse of discretion.” *Litchfield*, 140 Nev., Adv. Op. 57, 555 P.3d at 269. Because the first two law-of-the-case exceptions are not relevant to the facts presented here, we consider only whether the drop-down provision in the original judgment of conviction

was “clearly erroneous” and whether enforcement of the provision “would result in manifest injustice if enforced.” *Id.* at 270-71.

The second judge declined to enforce the drop-down provision after determining its inclusion in the judgment of conviction violated principles of separation of powers. The Nevada Constitution sets forth this doctrine, under which each of the three branches of government is strictly prohibited from exercising the functions of the others. *See* Nev. Const. art. 3, § 1(1). Separation of powers demands that “judicial power, and the exercise thereof by a judicial function, cannot include a power or function that must be derived from the basic Legislative or Executive powers.” *Galloway v. Truesdell*, 83 Nev. 13, 21, 422 P.2d 237, 243 (1967). The function of the judiciary is to hear and decide justiciable controversies, while the executive branch carries out and enforces state law. *Id.* at 20, 422 P.2d at 242; *see also* Nev. Const. art. 5, § 7 (stating that the governor “shall see that the laws are faithfully executed”). In a criminal case, the executive branch, through the district attorney, enjoys almost exclusive authority to decide how an offender should be charged and to conduct plea negotiations. *See Stromberg v. Second Jud. Dist. Ct.*, 125 Nev. 1, 6, 200 P.3d 509, 512 (2009); *In re A.T.*, 141 Nev., Adv. Op. 32, 570 P.3d 129, 134 (2025).

In *Stromberg*, we considered the constitutionality of a statutory scheme under which the district court could grant a defendant charged with felony third-offense DUI the opportunity to receive a judgment for second-offense DUI, a misdemeanor, upon successful completion of treatment. 125 Nev. at 6, 200 P.3d at 512. There, we concluded that this disposition was within the district court’s sentencing discretion following the prosecutor’s decision to charge as “a choice between the legislatively prescribed penalties set forth in the statute.” *Id.* at 8, 200 P.3d at 513. We additionally concluded

because the conviction would be treated as a third-offense DUI for the purpose of enhancing any future offenses that the sentencing scheme did not usurp the authority of the prosecutor. *Id.* But the facts here are distinguishable. Here, the drop-down provision was not a statutorily provided sentencing option. The judge providing the option at sentencing over the State’s objection invaded the plea negotiations and negated the prosecutor’s role by substituting a lesser offense for the charged felony. *See United States v. Edmonson*, 792 F.2d 1492, 1498-99 (9th Cir. 1986) (concluding that the district court usurped the government’s charging authority by changing the indictment to charge a lesser crime than that negotiated between the government and the defendant); *see also Righetti v. Eighth Jud. Dist. Ct.*, 133 Nev. 42, 46, 388 P.3d 643, 647 (2017) (holding that the district court entitling a defendant to plead guilty to a lesser offense than negotiated would “undermine prosecutorial discretion in charging and the State’s interest in obtaining a conviction on the [State’s chosen] charges” (citation modified)). Consequently, we conclude that, in this case, the drop-down provision added by the judge at sentencing was clearly erroneous because it violated constitutional separation-of-powers principles by allowing the court to assume the charging function granted solely to the executive branch.

To fall within the third exception to the law-of-the-case doctrine, an earlier decision must not only be clearly erroneous but also result in a manifest injustice if enforced. *Litchfield*, 140 Nev., Adv. Op. 57, 555 P.3d at 270-71. We recognize that a decision not to enforce the drop-down provision undercuts Castillo’s reliance on the assurance that he could achieve a more favorable case outcome by complying with the district court’s conditions. But “permitting a defendant to enter a guilty plea that does not conform to the charges as alleged in the charging document circumvents the State’s charging

authority and forces the State to . . . accept a deal it never offered.” *Righetti*, 133 Nev. at 46, 388 P.3d at 647. Furthermore, a judge selecting the offense to which a defendant may plead guilty opens the district court to questions about its impartiality and objectivity. *Cf. Cripps v. State*, 122 Nev. 764, 768-69, 137 P.3d 1187, 1190 (2006) (discussing risks associated with judicial involvement in the plea negotiation process). Most significantly, by overriding prosecutorial discretion, the court erodes separation of powers, a doctrine we have recognized to be “probably the most important single principle of government declaring and guaranteeing the liberties of the people.” *Heller v. Legislature of State of Nev.*, 120 Nev. 456, 466, 93 P.3d 746, 753 (2004) (quoting *Galloway*, 83 Nev. at 18, 422 P.2d at 241). These considerations demonstrate that in this case enforcement of the drop-down provision would work a manifest injustice not only to the prosecution, but to this state’s system of governance. Because the inclusion of the drop-down provision without the State’s consent was clearly erroneous and its execution would have resulted in a manifest injustice, an exception to the law-of-the-case doctrine permitted the successor judge to revisit the provision’s legality. Consequently, we conclude that removal of the drop-down provision from the judgment of conviction was not an abuse of discretion. We affirm the amended judgment of conviction.

CONCLUSION

No jurisdictional limitation precludes an assigned successor judge from reconsidering decisions by a previously assigned judge in the same case. Rather, the successor judge’s review of earlier decisions in the same case is guided by the law-of-the-case doctrine and its exceptions. Here, the drop-down provision included in the original judgment of conviction was clearly erroneous because it violated the doctrine of separation of powers. Because enforcement of this error would have resulted in a manifest injustice, an exception to the

law-of-the-case doctrine applies. As a result, the district court did not err in amending the judgment of conviction to remove the drop-down provision.

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Bell, J.

We concur:

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Herndon, C.J.

A handwritten signature in dark ink, appearing to be 'JS' or similar, written in a cursive style.

Stiglich, J.