

IN THE SUPREME COURT OF THE STATE OF NEVADA

NESTOR AMAVIZCA OBREGON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54377

FILED

MAY 12 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY [Signature]
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of driving under the influence (felony). Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

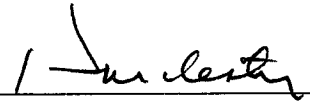
Appellant Nestor Amavizca Obregon's sole contention is that the district court erred in denying his motion for a new trial. He contends that the district court judge violated his right to due process by (1) failing to disclose his prior professional association one of the prosecuting attorneys and (2) failing to recuse himself.


As to the denial of the motion for a new trial, we discern no abuse of discretion. See Domingues v. State, 112 Nev. 683, 695, 917 P.2d 1364, 1373 (1996). The brief professional association between the district judge and the State's counsel more than seven years earlier was not disqualifying per se, Jacobson v. Manfredi, 100 Nev. 226, 230-31, 679 P.2d 251, 254 (1984) (providing that the mere allegation of a judge's prior relationship with a party to the case did not demonstrate bias sufficient to warrant disqualification); see also U.S. v. Bosch, 951 F.2d 1546, 1548-49 (9th Cir. 1991) (providing that the district court judge did not plainly err in failing to recuse himself where the prosecutor was a former law clerk), and the failure to disclose this brief association does not change that fact.


See NCJC Rule 2.11 (suggesting, but not requiring, that the district court judge disclose information that might reasonably be relevant to disqualification even if the judge believes there is no basis for disqualification). As for the district court's denial of the motion for recusal, which accompanied the renewed motion for a new trial, we discern no abuse of discretion because Obregon failed to file an affidavit specifying the facts upon which the disqualification was sought as NRS 1.235(1) requires. See Jacobson, 100 Nev. at 230-231, 679 P.2d at 254 (reviewing district court's denial of a motion for recusal for abuse of discretion).

For these reasons, we

ORDER the judgment of conviction AFFIRMED.

, J.
Hardesty

, J.
Douglas

, J.
Pickering

cc: Hon. Patrick Flanagan, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk