

8-12-2016

## State v. Eighth Jud. Dist. Ct. (Schneider), 132 Nev. Adv. Op. 59 (Aug. 12, 2016)

Ping Chang  
*Nevada Law Journal*

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### Recommended Citation

Chang, Ping, "State v. Eighth Jud. Dist. Ct. (Schneider), 132 Nev. Adv. Op. 59 (Aug. 12, 2016)" (2016). *Nevada Supreme Court Summaries*. Paper 997.

<http://scholars.law.unlv.edu/nvscs/997>

## CONSTITUTIONAL LAW: RIGHT TO A FAIR TRIAL

### **Summary**

The Court held that the district court abused its discretion when overturning a misdemeanor driving under the influence conviction by failing to consider the state's evidence of the defendant's guilt.

### **Background**

Schneider exercised her right to a trial in justice court for a charge of misdemeanor driving under the influence, after a bench trial, the judge found her guilty. Before any argument could be heard as to sentencing, the judge ordered Schneider be remanded into custody to serve an additional day in jail because she only had one day of credit for time served. Schneider argued that the automatic remand was a penalty for exercising her right to a trial. The judge responded that the remand was in accords to the departmental policies and procedures.

Schneider appealed the conviction to the district court, contending that her conviction was not supported by sufficient evidence and that her sentencing was unconstitutional because it was based upon a policy to discourage defendants from exercising their right to a trial. The district court concluded that there was no error in the trial or issue with the merits of the case, but the policy violated Schneider's due process right to a fair trial. Accordingly, the district court reversed Schneider's conviction and remanded the matter for a new trial. The State filed a writ petition arguing that the district court acted arbitrarily and capriciously in its determinations.

### **Discussion**

First, an arbitrary or capricious exercise of discretion exists when a court's decision was based on preference rather than evidence of established law.<sup>2</sup> The Court has recognized that a judge is biased when "the judge has closed his or her mind to the presentation of all the evidence."<sup>3</sup> More importantly, an individual "may not be punished for exercising a protected statutory or constitutional right."<sup>4</sup> The district court found that the justice court was biased because the justice court had closed its mind to the issue of sentencing by predetermining a sentence of two days in custody before hearing any arguments. Accordingly, the Court determined that the district court did not exercise its discretion arbitrarily or capriciously because the district court's decision was based on established law and the record before it.

Second, a reversal is warranted when judicial misconduct interferes with the right to a fair trial.<sup>5</sup> There was no showing that the bias toward Schneider at sentencing interfered with her fair trial right as the record did not reveal any error in the determination of Schneider's guilt

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<sup>1</sup> By Ping Chang.

<sup>2</sup> *State v. Eighth Jud. Dist. Ct. (Armstrong)*, 127 Nev. 927, 931–32, 267 P.3d 777, 780 (2011).

<sup>3</sup> *Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998).

<sup>4</sup> *United States v. Goodwin*, 457 U.S. 368, 372 (1982).

<sup>5</sup> *Kinna v. State*, 84 Nev. 642, 647, 447 P.2d 32, 35 (1968).

from the trial evidence. Therefore, the Court concluded that the district court arbitrarily and capriciously exercised its discretion to reverse Schneider's conviction.

### **Conclusion**

The district court did not abuse its discretion in concluding that the justice court was biased against Schneider at sentencing. However, the district court's decision to reverse Schneider's conviction and remand for a new trial was an abuse of discretion. Accordingly, the Court issued a writ of mandamus instructing the district court to strike the portion of its order that reversed Schneider's conviction.