

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSHUA RAY HONEA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 76621

FILED

SEP 27 2019

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

ORDER OF LIMITED REMAND

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of sexual assault of a minor under 16 years of age. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

Appellant Joshua Ray Honea contends, among other things, that the district court erred in denying his motion for a new trial due to juror misconduct. Honea asserts that juror number one accessed a newspaper article about the case, juror number three failed to disclose that he was related to a friend of the victim, and both jurors discussed the case outside of deliberations and made improper comments during jury deliberations. "A denial of a motion for a new trial based upon juror misconduct will be upheld absent an abuse of discretion by the district court." *Meyer v. State*, 119 Nev. 554, 561, 80 P.3d 447, 453 (2003). Because the district court did not conduct an evidentiary hearing on the issue of juror misconduct, we cannot determine from the record if the district court abused its discretion and if prejudicial juror misconduct in fact occurred. Thus, we remand this case to the district court for the limited purpose of conducting an evidentiary hearing to determine whether juror misconduct occurred and, if so, whether any misconduct was prejudicial. We retain jurisdiction over all other issues raised by Honea.

The district court shall have 90 days from the date of this order to conduct the evidentiary hearing and enter a written order. The district court clerk shall transmit the written order to this court within 5 days after it is entered.

It is so ORDERED.

Hardesty, J.
Hardesty

Stiglich, J.
Stiglich

Silver, J.
Silver

cc: Hon. Kathleen E. Delaney, District Judge
Jonathan E. MacArthur, P.C.
Monique A. McNeill
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk