

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES HOWARD HAYES, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 83274-COA

FILED

APR 20 2022

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

ORDER DENYING REHEARING

Rehearing denied. NRAP 40(c).

It is so ORDERED.¹

, C.J.
Gibbons

, J.
Bulla

¹James Howard Hayes, Jr., contends for the first time in his petition for rehearing that the Honorable Jerome T. Tao should have recused himself from participation in this matter. Hayes claimed that Judge Tao sat in trial-level proceedings in one of the cases that the State argued supported Hayes' adjudication as a habitual criminal in the instant case. Hayes did not challenge the validity of that prior conviction and thus fails to allege facts warranting recusal. *Cf. In re Petition to Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988) ("[R]ulings and actions of a judge during the course of official judicial proceedings do not establish legally cognizable grounds for disqualification."). Nevertheless, Judge Tao did not participate in the decision to deny rehearing.

cc: Hon. Monica Trujillo, District Judge
James Howard Hayes, Jr.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk