

IN THE SUPREME COURT OF THE STATE OF NEVADA

RAY REYES, INDIVIDUALLY,
Appellant,
vs.
CIVIL SERVICE BOARD OF THE LAS
VEGAS METROPOLITAN POLICE
DEPARTMENT; LAS VEGAS
METROPOLITAN POLICE
DEPARTMENT; AND CLARK COUNTY
DEPARTMENT OF FAMILY
SERVICES,
Respondents.

No. 62032

FILED

SEP 16 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order denying a petition for judicial review in an employment matter. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

Appellant Ray Reyes is a police sergeant who works for respondent Las Vegas Metropolitan Police Department. He sought qualification for promotion to lieutenant in 2011, but was disqualified from that process based on his disciplinary record. After the Promotional Review Board and the Civil Service Board both affirmed the Department's decision, appellant filed a petition for judicial review in the district court, which the district court denied. Appellant then filed this appeal.

In reviewing an administrative decision, this court, like the district court, determines whether the agency's decision was arbitrary or capricious, and thus, an abuse of discretion based on the administrative record. See NRS 233B.135; *Las Vegas Metro. Police Dep't v. Berni*, 111 Nev. 958, 961, 899 P.2d 1106, 1108 (1995). Factual determinations will only be overturned if they are not supported by substantial evidence,

which is evidence that a reasonable mind could accept as adequately supporting the agency's conclusions. *Nassiri v. Chiropractic Physicians' Bd.*, 130 Nev. ___, ___, 327 P.3d 487, 489 (2014). Questions of law are reviewed de novo without deference to the agency's determinations. *Id.*

Having considered appellant's proper person appeal statement and the record on appeal, we conclude that substantial evidence in the record supports the Promotional Review Board's decision, as affirmed by the Civil Service Board, that appellant failed to show that he was improperly disqualified from the lieutenant promotional eligibility list. See NRS 233B.135(2) (placing the burden of proof on the party attacking the administrative decision). Accordingly, we affirm the district court's order denying appellant's petition for judicial review.

It is so ORDERED.¹

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

¹Additionally, we find no merit to appellant's claim that the district court judge expressed prejudice against him in the proceedings below. Furthermore, an aggrieved party in a civil case does not have a constitutional right to the effective assistance of counsel, and thus, appellant's argument regarding such also lacks merit. See *Huckabay Props., Inc. v. NC Auto Parts, LLC*, 130 Nev. ___, ___, 322 P.3d 429, 435 (2014) (explaining that the remedy in a civil case wherein chosen counsel is negligent is an action for malpractice).

cc: Hon. Susan Johnson, District Judge
Ray Reyes
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Clark County District Attorney/Civil Division
Charlotte M. Matanane Bible
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