

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MELISSA JONES,
Appellant,
vs.
COMPLIANCE ENFORCEMENT
DIVISION OF THE DEPARTMENT OF
MOTOR VEHICLES,
Respondent.

No. 67032

FILED

JUL 20 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order dismissing a petition for judicial review for lack of jurisdiction in an action arising from fines imposed by the Department of Motor Vehicles. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

The district court dismissed appellant Melissa Jones' petition for judicial review of a decision of respondent Compliance Enforcement Division of the Department of Motor Vehicles (DMV) on the ground that the petition was untimely filed more than 33 days after service of the final administrative order. See NRS 233B.130(2)(c) (requiring a petition for judicial review to be "filed within 30 days after service of the final decision of the agency"); NRCP 6(e) (adding 3 days to the time required for filing a document that must be filed within a prescribed time period after service of a notice or other paper when the notice or paper is served by mail). On appeal, Jones asserts the district court's dismissal of her petition was improper because the DMV failed to mail the administrative order to a mailing address it had on file for her.

Although her argument is not clearly stated, it appears Jones is contending that service of the administrative order was never complete, and thus, the time period for filing a petition for judicial review was never triggered, because the administrative order was mailed to her home address, rather than a mailing address she had previously used in transactions with the DMV. NRCPC 5(b)(2)(B) provides that service of a document is complete upon the mailing of a copy of the document to "the party at his or her last known address." Thus, if Jones' home address was her last known address within the meaning of NRCPC 5(b)(2)(B), service was complete on June 9, 2014, and her petition for judicial review, filed on July 23 or 24, 2014, was untimely. See NRS 233B.130(2)(c); NRCPC 6(e).

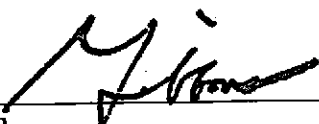
Jones does not dispute that the address to which the decision was mailed was, in fact, her home address or that, in the course of the underlying proceedings, she had previously received two notices of administrative hearings that were sent by the DMV to her home address. Indeed, substantial evidence in the record demonstrates that, on two occasions within the five months prior to mailing the administrative order, the DMV had used Jones' home address to send her notices about the underlying proceedings. Moreover, the DMV's use of her home address was effective to communicate the information to Jones, as Jones appeared at both hearings. Further, after the DMV used Jones' home address to serve the hearing notices, there is no indication in the record that Jones ever alerted the DMV that her home address should not be used to communicate information about the proceedings to her.

Under these circumstances, we cannot conclude that the district court clearly erred in finding Jones' home address to be her last known address for the purpose of satisfying NRCPC 5(b)(2)(B). See *Weddell*

v. H2O, Inc., 128 Nev. ___, ___, 271 P.3d 743, 748 (2012) (explaining that factual findings will not be set aside unless they are clearly erroneous or not supported by substantial evidence). As a result, the district court properly concluded that Jones' petition for judicial review was untimely, see NRS 233B.130(2)(c); NRCP 6(e), and the dismissal of the petition for lack of jurisdiction was appropriate. See *Fitzpatrick v. State, Dep't of Commerce, Ins. Div.*, 107 Nev. 486, 488, 813 P.2d 1004, 1005 (1991) (providing that "the time allotted by statute for taking an administrative appeal is jurisdictional, and to invoke the appellate jurisdiction of the district court, a petition for judicial review must be timely filed").

Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

¹In light of this order, we deny as moot Jones' July 6, 2015, motion for stay.

cc: Hon. Ronald J. Israel, District Judge
Melissa Jones
Attorney General/Transportation Division/Las Vegas
Eighth District Court Clerk