

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PETER PATON SCOTT,
Appellant,
vs.
THE STATE OF NEVADA
DEPARTMENT OF BUSINESS AND
INDUSTRY, DIVISION OF
INSURANCE,
Respondent.

No. 68211

FILED

NOV 19 2015

FRANCIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order dismissing a petition for judicial review of an administrative agency determination. Eighth Judicial District Court, Clark County; Timothy C. Williams, Judge.

On February 6, 2015, the Nevada Commissioner of Insurance entered an order affirming respondent Nevada Department of Business and Industry, Division of Insurance's denial of appellant Peter Paton Scott's application for a Resident Producer's License.¹ That same day, the Division served the order on Scott by mail. On March 17, 2015, 39 days after the Division served the order affirming the denial of Scott's application, Scott filed a petition for judicial review. The Division subsequently moved to dismiss Scott's petition as untimely, and the district court granted that motion. This appeal followed.

On appeal, Scott does not dispute that his petition was untimely under NRS 233B.130(2), but instead, argues that the district

¹Under Nevada law, a person must be licensed in order to sell insurance in this state. See NRS 683A.201.

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court erred in applying that statute's timing requirements to his petition for judicial review because the petition contained allegations of fraud, which he contends meant that it was governed by a different statute of limitations. But a statute of limitations sets forth the time limitations for filing an action. *See, e.g.*, NRS 11.190 (setting forth the time limitations for filing various actions). Here, the underlying proceeding was not an independent action, but was instead a petition for judicial review of an administrative decision. *See* NRS 679B.370(2) (providing that a person who is aggrieved by an order of the Commissioner of Insurance may petition the district court for judicial review of the order under NRS Chapter 233B). As such, the petition was subject to the requirements of NRS 233B.130, including the requirement that a party seeking judicial review of an administrative determination must file a petition "within 30 days after service of the final decision of the agency."² When that final decision is served by mail, an additional three days are added to the prescribed filing period. *See* NRCP 6(e).


Thus, Scott's petition, filed 39 days after service of the Commissioner's order, was untimely. *See* NRS 233B.130(2); NRCP 6(e). And because the time limitation for filing a petition for judicial review is mandatory and jurisdictional, the district court correctly dismissed the petition for judicial review once it determined that the petition was untimely. *See Mikohn Gaming v. Espinosa*, 122 Nev. 593, 598, 137 P.3d

²When the underlying proceedings took place, this provision was found at NRS 233B.130(2)(c). After Scott's appeal was filed, NRS 233B.130(2)(c) was renumbered as NRS 233B.130(2)(d), effective July 1, 2015, but the subsection was not substantively amended. 2015 Nev. Stat., ch. 160, § 9, at ____.

1150, 1154 (2006) (“As the time limitation [for filing a petition for judicial review] is jurisdictional, a district court is divested of jurisdiction if the petition is not timely filed.”). Accordingly, we affirm the district court’s order dismissing Scott’s petition for judicial review.³

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Timothy C. Williams, District Judge
Peter Paton Scott
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk

³We have considered Scott’s remaining arguments on appeal and conclude that they lack merit.