

IN THE SUPREME COURT OF THE STATE OF NEVADA

MITCHELL RUBINSON; AND ROMAN  
JONES,  
Appellants,  
vs.  
THE STATE OF NEVADA,  
DEPARTMENT OF TAXATION,  
Respondent.

No. 66317

**FILED**

**FEB 26 2016**

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

*ORDER OF AFFIRMANCE*

This is an appeal from a district court order denying a petition for judicial review in a tax matter. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

An administrative law judge found appellants Mitchell Rubinson and Roman Jones to be responsible persons under NRS 360.297 who willfully failed to pay for Prive Las Vegas, LLC's unpaid taxes. Rubinson and Jones appealed to the Nevada Tax Commission, which affirmed the administrative law judge's decision.

Rubinson and Jones subsequently filed a petition for judicial review with the district court. Respondent State of Nevada, Department of Taxation (Department), filed a motion to dismiss, arguing that the district court lacked jurisdiction to consider the petition because Rubinson and Jones had failed to comply with the requirements of NRS 360.395. The district court granted the Department's motion. Rubinson and Jones raise the following issues on appeal: (1) whether the district court erred in requiring Rubinson and Jones to comply with NRS 360.395 as a condition for appealing the final administrative determination of the Nevada Tax Commission to the district court; and (2) whether the repayment requirement prior to litigating, pursuant to NRS 360.395, violates

Rubinson's and Jones's right to due process and equal protection under the United States and Nevada Constitutions.



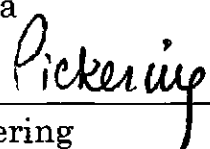
*Rubinson and Jones have conceded that they are subject to the requirements of NRS 360.395*

At the hearing regarding respondent's motion to dismiss, on July 8, 2014, counsel for Rubinson and Jones conceded that his clients did not have a right to move forward with a petition for judicial review because they had not paid the taxes owed or entered into an agreement with the Department. He further stated that "[s]o what I would invite the Court to do is to grant the motion to dismiss and to disallow the petition for judicial review."

Rubinson and Jones have made no effort to meet the requirements of the statute. Accordingly, it appears that this concession is dispositive of the issues on appeal.

Therefore, we

ORDER the judgment of the district court AFFIRMED.<sup>1</sup>

  
\_\_\_\_\_, J.  
Hardesty  
  
\_\_\_\_\_, J.  
Saitta  
  
\_\_\_\_\_, J.  
Pickering

---

<sup>1</sup>As the constitutional issues raised on appeal by Rubinson and Jones were not raised below and were not considered by the district court, we need not address them. *Munoz v. State ex rel. Dep't of Highways*, 92 Nev. 441, 444, 552 P.2d 42, 43-44 (1976).

cc: Hon. Jessie Elizabeth Walsh, District Judge  
Salvatore C. Gugino, Settlement Judge  
Jason G. Landess, Ltd.  
Attorney General/Las Vegas  
Eighth District Court Clerk