

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVE W. ALLEN, PRINCIPAL AND
OWNER OF AGS TRUCK DRIVER
TRAINING LLC,
Appellant,
vs.
THE STATE OF NEVADA,
DEPARTMENT OF MOTOR VEHICLES,
Respondent.

No. 72322

FILED

JUN 22 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Steve W. Allen appeals from the district court's order denying his petition for judicial review in a driving school license revocation matter. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Appellant Allen owned AGS Truck Driver Training, LLC, a licensed professional driving school that trained commercial driver license applicants, and Allen was the sole licensed third-party certifier at AGS.¹ Respondent, the Department of Motor Vehicles (DMV), investigated Allen and AGS in October 2015, and found that Allen violated several statutory requirements for professional driving schools, and revoked AGS's license. Allen appealed the license revocation to a hearing officer. The hearing officer affirmed the DMV's revocation. Allen filed a petition for judicial review, which the district court denied. This appeal followed.

¹We do not recount the facts except as necessary to our disposition.

On appeal, Allen challenges the hearing officer's findings regarding his statutory violations, asserting that they are not supported by substantial evidence and are clearly erroneous.² We disagree.

We generally review an agency's decision for an abuse of discretion or prejudicial legal error. NRS 233B.135(3)(e), (f); *State Tax Comm'n v. Am. Home Shield of Nev., Inc.*, 127 Nev. 382, 385-86, 254 P.3d 601, 603 (2011). A petition for judicial review may be granted if the agency's decision is "[c]learly erroneous in view of the reliable, probative and substantial evidence on the whole record." NRS 233B.135(3)(e). We review agency decisions in the same manner as the district court and will only overturn factual findings that are not supported by substantial evidence, which is evidence a reasonable mind would accept as adequate to support a conclusion. *Elizondo v. Hood Mach., Inc.*, 129 Nev. 780, 784, 312 P.3d 479, 482 (2013).

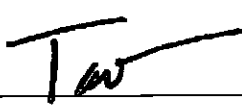
The DMV may cancel, revoke, or suspend a driving school license where a licensee "permits fraud or engages in fraudulent practices either with reference to the applicant or the Department," NRS 483.760(4), or "[i]f the licensee fails to comply with . . . any of the provisions of NRS


²Allen also argues that the DMV's actions were motivated by a desire to ruin Allen's career, citing *Mishler v. State Board of Medical Examiners*, 109 Nev. 287, 849 P.2d 291 (1993). We conclude that Allen's reliance on *Mishler* is unpersuasive as *Mishler* is inapposite here. *Cf. Mishler*, 109 Nev. at 296-97, 849 P.2d at 296-97 (concluding that the Board of Medical Examiners' proceedings against a physician were not to protect the public but amounted to a systematic effort to ruin the career of an outspoken physician, and dismissing the Board's disciplinary order).

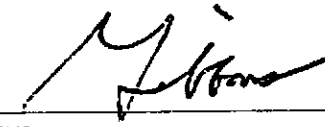
483.700 to 483.780, inclusive, or any of the regulations or requirements of the Department made pursuant thereto," NRS 483.760(5).³

The hearing officer found that Allen engaged in fraudulent practices and failed to comply with several DMV regulations in violation of NRS 483.760, and that these violations warranted the DMV's revocation of AGS's provisional driving school license. We conclude the hearing officer thoroughly examined the facts surrounding the alleged violations and substantial evidence supports the hearing officer's decision to affirm the DMV's revocation of Allen's driving school license. *See Bopp v. Lino*, 110 Nev. 1246, 1249, 885 P.2d 559, 561 (1994) ("Substantial evidence is that evidence which a reasonable mind might accept as adequate to support a conclusion."). Therefore, the district court did not err when it denied Allen's petition for judicial review. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Tao


_____, C.J.
Silver


_____, J.
Gibbons

cc: Hon. Michelle Leavitt, District Judge
Craig A. Hoppe, Settlement Judge
The Gersten Law Firm PLLC
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk

³At the time Allen's license was revoked, these provisions were codified at NRS 483.760(1) and (2), respectively.