IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM LOCKLIN, A/K/A DONALD JAY BUNELL, D/B/A LOCKLIN WEST,
Appellant,
vs.
STATE OF NEVADA, DEPARTMENT OF MOTOR VEHICLES AND PUBLIC SAFETY,
Respondents.

No. 37477

FILED

JUL 09 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

William Locklin appeals from the district court's order denying judicial review of an administrative law judge's (ALJ) decision in favor of Respondent Department of Motor Vehicles and Public Safety (DMV). On appeal, Locklin raises various contentions challenging the district court's refusal to review a fine of $2,500 that the DMV imposed against him for operating a wrecking yard without a license. We conclude that all his contentions lack merit.

Locklin first contends that the DMV lacked jurisdiction to fine him because he had not "voluntarily submitted" to the DMV's jurisdiction through the licensing process. We disagree. It is axiomatic that administrative agencies hold no more power than that which the legislature has committed to them.[1] Under its enabling statutes, the DMV has the jurisdiction to regulate and the authority to fine unlicensed automobile-wrecking operators. Specifically, NRS 487.050(1) requires wreckers to obtain a license from the DMV before engaging in wrecking

[1]See Clark Co. School Dist. v. Teachers Ass'n, 115 Nev. 98, 103, 977 P.2d 1008, 1011 (1999).

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operations, and under NRS 487.700(1), the DMV has authority to impose a fine of up to $2,500 against those who violate the licensing requirement.

On this jurisdiction theme, Locklin also asserts that this case presents a "County sovereignty issue" because the State has "usurp[ed] the jurisdiction of the local District Attorney." He argues that his offense was a misdemeanor according to NRS 487.200, and therefore enforcement should have been left to local law-enforcement authorities. We reject Locklin's narrow reading. NRS Chapter 487 clearly creates a dual system of enforcement, allowing the DMV to impose administrative fines for violations as well as allowing criminal prosecution by the local authorities.[2]

Further, we conclude that the Attorney General Opinion that Locklin cites in support of his jurisdiction argument has no bearing on this case.[3] Without addressing the substance of this opinion, we simply note that the relevant dates demonstrate the opinion's inapplicability. NRS 487.700 was added in 1991, many years after the 1958 A.G.O. Also, the extra-jurisdictional cases that Locklin relies on are distinguishable because, among other reasons, the statutes at issue in those cases expressly limited the agencies' jurisdiction to licensees.[4] NRS 487.700 contains no such limitation.

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[2]The tools of statutory construction Locklin invites us to employ are inapplicable in this case because the relevant statutes are unambiguous. See In Re Walters' Estate, 60 Nev. 172, 183-84, 104 P.2d 968, 973 (1940).

[3]395 Op. Att'y Gen. 15 (1958).

[4]See Davidson v. D.C. Board of Medicine, 562 A.2d 109 (D.C. App. 1989) (citing a revoked statute, D.C. Code § 2-1326(d)(1) (1981), which formerly allowed the board to penalize "a present or former licensee");

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Locklin next challenges the amount of his fine, arguing that his fine reflects heavy-handed enforcement and that a much lesser fine was in order. We disagree. Our review of the record reveals that substantial evidence supported the ALJ's decision.[5] In particular, various witnesses provided eyewitness accounts in addition to other photographic and documentary evidence regarding the facts supporting the ALJ's conclusion that Locklin, even after warnings and opportunities to obtain the required license, had continued wrecking operations without a license.

In a related argument, Locklin asserts that the ALJ's determination was erroneous because the ALJ was unsure as to whether he had the power to reduce the fine. We note, however, that nothing in the ALJ's decision indicates that he was inclined to reduce the fine or set it aside had he perceived that he held the authority to do so. Accordingly, we simply review the ALJ's decision for substantial evidence.

Locklin also argues that his fine was excessive according to the DMV's own schedule of fines for the conduct in question. He has, however, misapplied the relevant section of the code. Locklin would have us apply NAC 487.200(1), which allows a fine of no more that $500, but that subsection is expressly subject to subsection two. And, NAC

. . . *continued*
Perry v. Vermont Medical Practice Bd., (considering 26 V.S.A. § 1353(a)(2), which allows the practice board "to investigate and adjudicate charges of unprofessional conduct by licensees").

[5]See Beavers v. State, Dep't of Mtr. Vehicles, 109 Nev. 435, 438, 851 P.2d 432, 434 (1993) (noting that this court will not disturb an agency's determination if supported by substantial evidence).

487.200(2) allows the DMV to impose a fine of up to $2,500 for a violation of, among other statutes, NRS 487.050, the licensing requirement.

Locklin raises a number of miscellaneous issues, all of which lack merit:

First, Locklin argues that the ALJ admitted improper hearsay testimony without corroboration. He fails, however, to point specifically to any problematic testimony. In any event, there was ample corroboration of the testimony given at the hearing.[6]

Locklin next contends that the "ranch exception" of NRS 487.290(2)(c) should have been applied in his favor. But we note that the exception applies only to NRS 487.290(1), which is not relevant here.

Locklin next asserts that under the federal Americans with Disabilities Act (ADA) the rules should have been "bent" in his favor due to the fact that he suffers from diabetes and a heart condition. Other than this general assertion, however, he fails to demonstrate just how the ADA requires the DMV to relax its enforcement of the licensing requirements.[7]

Finally, Locklin claims that the ALJ's decision was improperly tainted by evidence of Locklin's several aliases and his previous felony conviction. On the contrary, we are confident that the ALJ properly sorted the irrelevant evidence from the relevant in reaching his decision.

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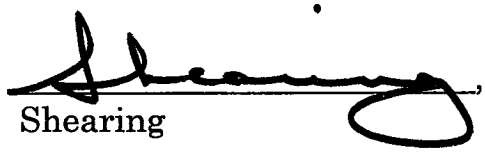
[6]See Biegler v. Nevada Real Est. Div., 95 Nev. 691, 695, 601 P.2d 419, 422 (1979) (noting that hearsay testimony is admissible in administrative hearings, but it must be corroborated to serve as the basis for the decision).

[7]See State, Dep't of Mtr. Vehicles v. Rowland, 107 Nev. 475, 479, 814 P.2d 80, 83 (1991) ("Generally, unsupported arguments are summarily rejected on appeal.").

We conclude that the district court properly declined review of this administrative case. Accordingly, we

ORDER the judgment of the district court AFFIRMED.



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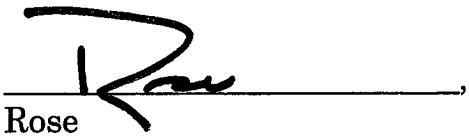

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cc: Hon. Jerry V. Sullivan, District Judge
William E. Schaeffer
Attorney General/DMV/Carson City
Lander County Clerk