

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES ROCHA,
Appellant,

vs.

THE STATE OF NEVADA
DEPARTMENT OF HEALTH AND
HUMAN SERVICES, DIVISION OF
PUBLIC AND BEHAVIORAL HEALTH,
Respondent.

No. 82485

FILED

APR 27 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a decision by a hearing officer following remand by a district court judge on a petition for judicial review. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.


After a Personnel Commission hearing officer determined that respondent had improperly terminated appellant from his job, respondent filed a petition for judicial review. The district court granted the petition in part, denied it in part, and remanded the matter to the hearing officer to decide under a different standard. On remand from the district court, the hearing officer reversed course and found that appellant had in fact not been improperly terminated. Aggrieved, appellant appealed directly to this court, without seeking further judicial review from the district court.

Respondent argues, correctly, that this court lacks jurisdiction to hear this appeal. "NRAP 3A(b) designates the judgments and orders from which an appeal may be taken, and where no statutory authority to appeal is granted, no right exists." *Taylor Constr. Co. v. Hilton Hotels Corp.*, 100 Nev. 207, 209, 678 P.2d 1152, 1153 (1984). NRS 233B.130 provides for judicial review of an adverse agency decision by petition to the district court; NRS 233B.150 provides for "review of any final judgment of the district court by appeal to the appellate court of competent jurisdiction." (emphasis

added). Because appellant bypassed the district court after the hearing officer revised its ruling on remand, the district court order on the petition for judicial review never resolved into a final judgment. Since, as applicable here, an appeal may only be taken from a final order of the district court, NRS 233B.150; NRAP 3A(b)(1), “[u]ntil such time as the district court enters a final order either approving or disapproving the agency action, there is nothing for us to review.” *Gilcrist v. Schweiker*, 645 F.2d 818, 819 (9th Cir. 1981); see *Gen. Motors v. Jackson*, 111 Nev. 1026, 1027-29, 900 P.2d 345, 346-47 (1995) (analyzing whether the district court had had authority to remand to agency after the parties returned to district court following remand proceedings); *Desert Oak Homes v. Eighth Judicial Dist. Court*, No. 61781, 2012 WL 5862754 (Nev. Nov. 16, 2012) (Order Denying Petition for Writ of Mandamus or Prohibition) (“Here, petitioners challenge a district court order granting in part a petition for judicial review of an administrative agency decision and remanding the matter to the agency for further factual findings. Petitioners, if aggrieved, can challenge any final agency decision on remand through a petition for judicial review, NRS 233B.130(1), and if [still] aggrieved, may appeal to this court.”).

Because we lack appellate jurisdiction, we
ORDER this appeal DISMISSED.

, J.
Silver

, J.
Cadish

, J.
Pickering

cc: Hon. Kathleen E. Delaney, District Judge
Kristine M. Kuzemka, Settlement Judge
Law Office of Daniel Marks
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk