

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES SHARKEY, AN INDIVIDUAL,
Appellant,
vs.
REAL ESTATE DIVISION,
DEPARTMENT OF BUSINESS AND
INDUSTRY, STATE OF NEVADA; AND
SHARATH CHANDRA, IN HER
CAPACITY AS ADMINISTRATOR,
Respondents.

No. 90473-COA

FILED

SEP 24 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY EM Jones
DEPUTY CLERK

ORDER OF AFFIRMANCE

James Sharkey appeals from a district court order dismissing a petition for judicial review. Eighth Judicial District Court, Clark County; Tina Talim, Judge.

In the underlying proceedings, Sharkey submitted an application for a real estate broker's license. Respondent Real Estate Division, Department of Business and Industry (Division), later denied Sharkey's application due to a criminal conviction and resulting sentence. Sharkey appealed the denial to the Nevada Real Estate Commission (Commission). The Commission considered Sharkey's appeal at a hearing and later issued a written decision denying Sharkey's appeal and affirming the Division's decision to reject Sharkey's application. The written decision was issued on August 21, 2024.

On August 30, 2024, Sharkey filed a petition for judicial review of the decision to deny his application. Sharkey named the Division as a respondent in the caption but failed to name the Commission as a respondent. The Division filed a motion to dismiss, asserting, in relevant

part, that the petition failed to name the Commission as a respondent as required by NRS 233B.130(2)(a), and therefore, the district court lacked jurisdiction to consider the petition. Sharkey opposed the motion. The district court subsequently denied the motion and afforded Sharkey ten days to file an amended petition to name the Commission as a party.

However, Sharkey did not file an amended petition within ten days. In light of Sharkey's failure to file an amended petition, the district court issued an order directing him to show cause as to why this matter should not be dismissed. On March 11, 2025, Sharkey filed an amended petition for judicial review, which included the Commission in the caption. At the show-cause hearing, the district court explained that Sharkey's amended petition was untimely filed and, in light of Sharkey's failure to name the Commission as a respondent in the original petition or timely amend the petition, it lacked jurisdiction to consider the petition. The district court subsequently issued a written order dismissing the petition. This appeal followed.

On appeal, Sharkey challenges the district court's decision to dismiss the petition for lack of jurisdiction, contending the procedural requirements were not sufficiently clear, his service of the petition upon the Division provided sufficient notice to the Commission of the district court proceedings, and it would be unfair to reject the petition on procedural grounds. In addition, Sharkey appears to contend he sufficiently named the Commission in the body of the petition. Finally, Sharkey contends the district court erred by rejecting his amended petition, which he asserts corrected the naming error.

We review a decision to reject a petition for judicial review for lack of subject matter jurisdiction de novo. *Whitfield v. Nev. State Pers.*

Comm'n, 137 Nev. 345, 349, 492 P.3d 571, 575 (2021). A petition for judicial review must “[b]e filed within 30 days after service of the final decision of the agency.” NRS 233B.130(2)(d). NRS 233B.130(2)(a) requires petitions for judicial review to “[n]ame as respondents the agency and all parties of record to the administrative proceeding.” An “[a]gency” means an agency, bureau, board, *commission*, department, division, officer or employee of the Executive Department of the State Government authorized by law to make regulations or to determine contested cases.” NRS 233B.031 (emphasis added).

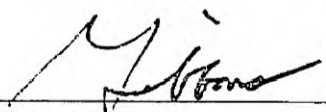
Where the petitioner fails to strictly comply with the naming requirement, the petition must be rejected as jurisdictionally defective. *Whitfield*, 137 Nev. at 349, 492 P.3d at 575. “A petitioner must name as respondents, within the caption or petition itself, every party of record to the underlying administrative proceedings.” *Id.* “Further, if the petitioner fails to invoke the district court’s jurisdiction by naming the proper parties within the statutory time limit, the petition may not subsequently be amended to cure the jurisdictional defect.” *Washoe Cnty. v. Otto*, 128 Nev. 424, 426, 282 P.3d 719, 721 (2012).


Here, Sharkey mentioned the Commission in his petition but failed to identify it in the caption or elsewhere in the petition as a respondent. Therefore, pursuant to *Whitfield*, 137 Nev. at 349, 492 P.3d at 575, he failed to strictly comply with NRS 233B.130(2)(a). Moreover, Sharkey fails to demonstrate that the naming requirements of NRS 233b.130(2)(a) were insufficiently clear or unfair. In addition, Sharkey does not demonstrate that his service of the petition upon the Division should excuse his failure to name the Commission as a respondent.

Sharkey also fails to demonstrate the district court erred by rejecting his amended petition, as Sharkey's attempt to amend his petition occurred well after the 30-day deadline provided by NRS 233B.130(2)(d). *See Otto*, 128 Nev. at 435, 282 P.3d at 727 ("Because [the petitioner's] original petition failed to invoke the district court's jurisdiction, it could not properly be amended outside of the filing deadline."). Moreover, Sharkey fails to demonstrate the district court violated his right to due process by rejecting his untimely attempt to amend the petition and by concluding it lacked jurisdiction to consider the petition. *See Whitfield*, 137 Nev. at 349-50, 492 P.3d at 575-76 (rejecting an argument that NRS 233B.130(2)(d)'s 30-day time limit to file a petition for judicial review violated a petitioner's right to due process). In light of the foregoing, we affirm the district court's dismissal of Sharkey's petition for judicial review.

It is so ORDERED.¹


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Tina Talim, District Judge
James Theodore Sharkey
Attorney General/Carson City
Attorney General/Reno
Eighth District Court Clerk

¹Insofar as Sharkey raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.