

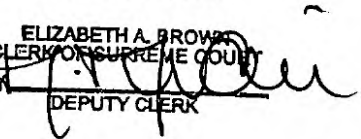
IN THE SUPREME COURT OF THE STATE OF NEVADA

MARQUE MOTOR COACH, INC.,
Appellant,
vs.
NEVADA TAX COMMISSION AND
NEVADA DEPARTMENT OF
TAXATION, AN AGENCY OF THE
STATE OF NEVADA,
Respondents.

No. 90619

FILED

FEB 06 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order resolving motions to enforce and for clarification in an action regarding the payment of taxes. Eighth Judicial District Court, Clark County; Eric Johnson, Judge. Respondents moved to dismiss this appeal for lack of jurisdiction. This court's jurisdictional prescreening revealed additional possible jurisdictional defects not raised in the motion to dismiss. Accordingly, this court entered an order directing appellant Marque Motor Coach Inc. (Marque) to show cause why this appeal should not be dismissed. Marque has filed an opposition to the motion to dismiss and a response to the order to show cause. Respondents have filed a reply in support of their motion and a reply regarding the order to show cause.

The underlying district court action began with the filing of a petition seeking judicial review of a decision issued by the Nevada Tax Commission (NTC). On August 14, 2024, the district court entered an order that, among other things, agreed with Marque's assertion that a

state tax paid by Marque is unconstitutional to the extent it taxes interstate travel. The district court order remanded the matter to the NTC to determine the amount of the refund due.

Upon remand, the NTC approved a refund of certain taxes paid by Marque from September 2015 to July 2016, as calculated and recommended by the Nevada Department of Taxation (DOT). DOT subsequently filed a motion for clarification in the district court seeking guidance about the identity of the proper party to whom to remit the refund.¹ Believing that it was entitled to a larger refund than awarded by the NTC, Marque filed a counter-motion to enforce the August 14 order. Marque asserted that the NTC miscalculated the percentage of interstate travel, improperly excluded unconstitutional taxes Marque paid from September 2015 to September 2018, and the recalculation was made without proper explanation or due process.

On April 10, 2025, the district court entered an order resolving the parties' motions for clarification and to enforce. Among other things, the order denies Marque's request for a refund of all unconstitutional taxes paid from September 2015 to September 2018 and remands the matter to the NTC to hold a hearing, determine the amount of the refund due, and provide a detailed explanation of the calculation and records reviewed. Marque appeals from the April 10 district court order.

This court's show cause order identified several potential jurisdictional defects with the appeal. Included among them was

¹At some point, Marque Motor Coach Inc. ceased operating as Marque Motor Coach Inc. and began operating as Marque Motor Coach LLC.

whether the April 10 order is appealable as a final judgment and whether the order resolves the amount of refund due with sufficient finality to sustain an appeal. Having considered the parties' filings and other documents before this court, we are not convinced that this court has jurisdiction over this appeal.

Marque asserted in the docketing statement and its opposition to the motion to dismiss that the April 10 order was appealable as a final judgment under NRAP 3A(b)(1). This court's order to show cause explained that the August 14, 2024, order appeared to be the final judgment in this matter, there can be only one final judgment, and the April 10, 2025, order is not appealable as a second final judgment. *See Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (defining a final judgment); *Alper v. Posin*, 77 Nev. 328, 331, 363 P.2d 502, 503 (1961), *overruled on other grounds by Lee v. GNLV Corp.*, 116 Nev. 424, 996 P.2d 416 (2000). Marque suggests in response that the August 14 order is not a final judgment because the district court did not determine the amount of the refund due or the time period for which it was entitled to a refund. We disagree.

Marque's petition for judicial review did not ask the district court to review or determine the amount of the refund due or the time period for which it was entitled to a refund. Instead, it appears from the documents before this court that the August 14 order fully and finally resolved the discrete legal issue presented in Marque's petition—whether the tax was constitutional. Accordingly, it appears the August 14 order was the final judgment in the district court action. *See Lee*, 116 Nev. at 426, 996 P.2d at 416; *Bally's Grand Hotel & Casino v. Reeves*, 112

Nev. 1487, 929 P.2d 936 (1996) (concluding that a district court order granting a petition for judicial review and remanding for calculation of benefits was a final judgment where the order resolved the discrete legal issue before the court—whether petitioner was entitled to benefits). Given that a final judgment was entered on August 14, 2024, the April 10, 2025, order cannot also be a final judgment. *See Alper*, 77 Nev. at 331, 363 P.2d at 503.

Moreover, even if the April 10 order would ordinarily be appealable under some provision of NRAP 3A, the order does not finally resolve the amount of the refund due such that the issue is ripe for appeal. As explained in the order to show cause, an independently appealable order is properly appealed only after the issue at hand is finally resolved. *See Sicor, Inc. v. Sacks*, 127 Nev. 896, 900, 266 P.3d 618, 620 (2011) (explaining that appeals are proper from appealable interlocutory orders only when the order finally resolves the particular issue); *McGlamery v. Pub. Employees' Retirement Sys. of Nev.*, No. 90609, (Nev. March 26, 2020) (Order Dismissing Appeal) (concluding that a post-judgment order awarding attorney fees in an amount to be determined is not appealable under NRAP 3A(b)(8) because it does not resolve the issue of attorney fees with finality).

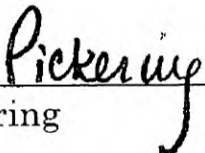
Marque's motion to enforce asserted that the DOT erred when computing the refund due by limiting the refund period from September 2015 to July 2016, miscalculating the percentage of travel attributed to interstate operations, and declining to award interest on the amount of the refund. Marque also argued that the NTC erred by affirming the amount of the refund computed by DOT without allowing

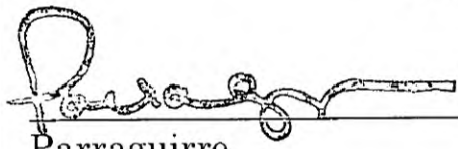
it to be heard or present evidence. In its April 10 order, the district court concluded that Marque was not entitled to a refund of taxes paid from September 2015 to July 2018, because it only requested a refund from September 15, 2015, to July 2016. However, the district court agreed that Marque was entitled to a hearing before the NTC. The court remanded the matter to the NTC to allow Marque to present evidence regarding the percentage of interstate travel and directed the NTC to issue a new recommendation containing a detailed explanation of the calculation of that percentage.

While the April 10 order resolves the issue of the time frame of the refund due, it does not finally resolve the other issues raised in the motion to enforce that are necessary to calculate the amount of refund due—the percentage of interstate travel and the award of interest. The appeal from the order is therefore premature. *Cf. Wells Fargo Bank, N.A. v. O'Brien*, 129 Nev. 679, 680-81, 310 P.3d 581, 582 (2013) (rejecting an argument that a district court order remanding for further foreclosure mediation was a final judgment because the order resolved all of the issues presented to the district court and concluding that the order was not a final judgment where the mediation proceedings upon remand would again address the merits of the foreclosure matter); *State Taxicab Auth. v. Greenspun*, 109 Nev. 1022, 862 P.2d 423 (1993) (concluding that a district court order remanding to the Nevada Taxicab Authority to consider evidence it previously did not consider was not a final judgment where that order did not resolve the merits of the underlying application or the Authority's decision).

Accordingly, Marque fails to demonstrate that the April 10, 2024, order is appealable, *see Moran v. Bonneville Square Assocs.*, 117 Nev. 525, 527, 25 P.3d 898, 899 (2001) (“[T]he burden rests squarely upon the shoulders of a party seeking to invoke our jurisdiction to establish, to our satisfaction, that this court does in fact have jurisdiction.”), and we dismiss this appeal. Given this dismissal, we deny respondents’ motion to dismiss as moot and do not address the remaining potential jurisdictional defects identified in the order to show cause.

It is so ORDERED.


_____, J.
Pickering


_____, J.
Parraguirre


_____, J.
Bell

cc: Hon. Eric Johnson, District Judge
Laurie A. Yott, Settlement Judge
Cooper Levenson, P.A.
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk