

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ABILITY SCHOOL OF ESTHETICS;  
NATHAN O'HARA; AND JERRY XU,  
Appellants,  
vs.  
NEVADA STATE BOARD OF  
COSMETOLOGY,  
Respondent.

No. 89447-COA

**FILED**

**MAY 13 2026**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *Melissa J. [Signature]*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Ability School of Esthetics, its owner Nathan O'Hara, and its registrar Jerry Xu appeal from a district court order granting a motion to dismiss in an administrative matter. Eighth Judicial District Court, Clark County; Tina Talim, Judge.

Following a hearing, on January 22, 2024, respondent, the Nevada State Board of Cosmetology (Board), found appellants in violation of various provisions of NRS 644A and imposed several disciplinary measures. Within 30 days, on February 12, 2024, appellants filed a notice of appeal in the district court. The certificate of mailing showed that Ability mailed the notice to the deputy attorney general representing the Board in Las Vegas and the Office of the Attorney General in Las Vegas.

Several months later, appellants filed an “errata to notice of appeal re: petition for judicial review,” seeking to clarify that they were intending to pursue a petition for judicial review, and a motion to extend time to serve the errata pursuant to NRS 233B.130(5). The Board subsequently filed an opposition to appellants’ motion to extend time and a countermotion to dismiss the petition for judicial review for lack of subject matter jurisdiction. The district court subsequently denied appellants’ motion to extend the service deadline and granted the Board’s motion to dismiss. This appeal followed.

On appeal, appellants challenge the district court’s dismissal order. We review a decision to dismiss 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). Generally, courts do not have jurisdiction to review official decisions of administrative agencies unless there is a statute allowing it. *Washoe Cnty. v. Otto*, 128 Nev. 424, 431, 282 P.3d 719, 724 (2012). Nevada’s Administrative Procedure Act, codified at NRS Chapter 233B, governs judicial review of administrative decisions. *Liberty Mut. v. Thomasson*, 130 Nev. 27, 30, 317 P.3d 831, 834 (2014). The Nevada Supreme Court has previously explained that the filing requirements of NRS 233B.130(2) are “mandatory and jurisdictional” and a “district court lacks jurisdiction to consider a petition that fails to comply with” that statute. *Otto*, 128 Nev. at 432-33, 282 P.3d at 725.

NRS 233B.130(2)(c)(1) provides that a petition for judicial review of an administrative decision must be served upon the “Attorney General, or a person designated by the Attorney General, at the Office of

the Attorney General *in Carson City*.” (Emphasis added.) “[F]ailure to strictly comply with NRS 233B.130(2)(c)(1) requires dismissal absent a demonstration of good cause.” *Heat & Frost Insulators & Allied Workers Loc. 16 v. Lab. Comm’r*, 134 Nev. 1, 4, 408 P.3d 156, 159 (2018); *see also* NRS 233B.130(5) (providing that a petition for judicial review must be served within 45 days of filing the petition, but permitting the district court to extend the 45-day period “upon a showing of good cause”).

Here, the certificate of mailing shows that appellants mailed their initial filing, labeled as a notice of appeal, to a deputy attorney general in Las Vegas. However, as previously noted, NRS 233B.130(2)(c)(1) specifically requires that a petition for judicial review be mailed to the Office of the Attorney General in Carson City and the failure to strictly comply with that mandate necessitated dismissal unless appellants demonstrated good cause. *See Heat & Frost*, 134 Nev. at 4, 408 P.3d at 159.

Below, several months after filing a document titled notice of appeal, appellants argued good cause supported extending the service timeline. The Board thereafter sought dismissal for lack of jurisdiction, arguing that appellants failed to comply with the jurisdictional requirements for seeking judicial review of an agency decision. The district court later granted the Board’s motion to dismiss, determining appellants failed to strictly comply with NRS 233B.130. The district court further determined that there was no good cause or excusable neglect to extend the service deadline and it nevertheless lacked jurisdiction to grant such a request.

Based on our review of the record before this court, we conclude appellants fail to demonstrate the district court erred by dismissing this matter for lack of jurisdiction. Setting aside whether the notice of appeal that was filed could constitute a timely filing of a petition for judicial review, the record demonstrates that appellants did not comply with the service requirements of NRS 233B.130(2)(c)(1), as they did not serve the document upon the Attorney General or a person designated by the Attorney General at the Office of the Attorney General in Carson City. A failure to strictly comply with the statutory service requirements necessitated dismissal unless appellants demonstrated good cause. And the district court determined there was no good cause to extend the service deadline. Appellants do not argue on appeal that they demonstrated good cause, so any argument in that respect is forfeited. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (“Issues not raised in an appellant’s opening brief are deemed [forfeited].”).<sup>1</sup> Although the district court found that appellants failed to properly serve the errata rather than the notice of appeal, this court may affirm the district court on any ground supported by the record, even if not relied upon by the district court. *See Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 599, 245 P.3d 1198, 1202 (2010). Because the record demonstrates appellants


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<sup>1</sup>In their opening brief, appellants state that the Board “conceded [the] service requirement” below. However, the Board clarified at the hearing on its motion to dismiss that it did not concede the service issue, and, importantly, the district court did not find that issue conceded. And, as discussed above, appellants failed to strictly comply with the service requirements of NRS 233B.130(2)(c).

failed to comply with the mandatory service requirements from NRS 233B.130(2)(c)(1), we conclude the district court properly granted the motion to dismiss. *See Whitfield*, 137 Nev. at 349, 492 P.3d at 575. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

  
\_\_\_\_\_, C.J.  
Bulla

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Tina Talim, District Judge  
Paul S. Lychuk, Settlement Judge  
Kirk T. Kennedy  
Attorney General/Carson City  
Attorney General/Las Vegas  
Eighth District Court Clerk

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<sup>2</sup>Although appellants' "statement of the issues presented for review" in their opening brief includes the district court's denial of its motion to extend time to serve the petition, they make no argument about that denial, so this court need not address it. *See Powell*, 127 Nev. at 161 n.3, 252 P.3d at 672 n.3.

Insofar as appellants raise 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 or need not be reached given our disposition.