

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE COUNTY OF LYON, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA; AND THE LYON COUNTY
BOARD OF COMMISSIONERS,

Appellants,

vs.

ADVANCED SPECIALTY GASES, INC.,
A NEVADA CORPORATION,

Respondent.

No. 40285

FILED

MAR 06 2003

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order that remanded a petition for judicial review to the Lyon County Commission for further review. Respondent has filed a motion to dismiss this appeal. Appellants oppose the motion.

Respondent asserts that this appeal should be dismissed because the order appealed from is not a final judgment from which an appeal may be taken.¹ Specifically, respondent states that because the district court remanded to the Lyon County Commission for further review, the district court did not “dispose of the issues presented in this case.” Appellants argue that this appeal is appropriately filed because the district court’s order does not direct the Lyon County Commission to hear further evidence or allow more discovery, nor does the district court “reserv[e] to itself further jurisdiction of the case.”

A party may only appeal an order remanding a matter to an administrative agency if the order constitutes a final judgment.² A district court order remanding to an administrative agency is a final order if the

¹See NRAP 3(b)(1).

²Clark County Liquor v. Clark, 102 Nev. 654, 730 P.2d 443 (1986).

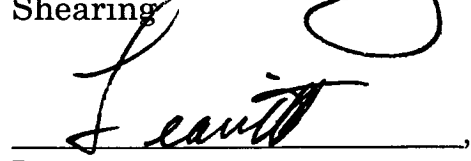
term “remand” in the order does not change the substantive finality of the issues actually presented to the district court.³

Here, the district court was asked to review the decision of the Lyon County Board of Commissioners to revoke a special use permit issued to Advanced Specialty Gases, Inc. The district court order remanded to the Lyon County Commission for further review in light of comments made in the order, directed the Lyon County Commission to consider possible alternatives to the revocation of the special use permit and directed the Lyon County Commission to support their decision with clear concise findings of fact supported by the evidence considered, in the event they determined that revocation remained appropriate after further review. Because the district court order did not resolve the issues presented to it and remanded to the Lyon County Commission for further review, the district court order is not a final order that may be appealed. Accordingly, we grant respondent’s motion and dismiss this appeal.


It is so ORDERED.⁴



Shearing J.



Leavitt J.



Becker J.

³Bally’s Grand Hotel v. Reeves, 112 Nev. 1487, 929 P.2d 936 (1996).

⁴In light of this order, we deny, as moot, respondent’s February 26, 2003, emergency motion for injunctive relief.

cc: Hon. David A. Huff, District Judge
Keith Loomis
Allison, MacKenzie, Russell, Pavlakis, Wright & Fagan, Ltd.
Lyon County Clerk