

IN THE SUPREME COURT OF THE STATE OF NEVADA

DESERT CAB, INC.,
Appellant,
vs.
TRANSPORTATION SERVICES
AUTHORITY, AN AGENCY OF THE
STATE OF NEVADA; AND STARDUST
LIMOUSINE,
Respondents.

No. 40700

FILED

JUN 2 2004

JANE M. BLOOM
CLERK OF SUPREME COURT
BY *Jane M. Bloom*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Appellant Desert Cab, Inc. appeals from a district court order denying a petition for judicial review and affirming respondent Transportation Services Authority's (TSA) approval for a tariff modification for respondent Stardust Limousine, Inc.

On August 27, 2001, Stardust filed a notification with the TSA seeking to modify its tariff rates for limousine services provided under its certificate of public convenience.¹ Stardust sought to modify its tariff rates for casino-to-casino direct limousine service within the Laughlin Strip, located on Casino Drive in Laughlin, Nevada. The Public Service Commission, the predecessor to the TSA, granted Stardust authority for casino-to-casino direct limousine service in Laughlin in 1991. Due to a

¹NRS 706.386 provides that all "common motor carrier[s]" must have "a certificate of public convenience . . . from the [TSA]" in order to provide passenger transportation within this state.

A certificate of public convenience defines the operating authority the carrier has and may include limitations and/or restrictions. NRS 706.391(5)-(6).

clerical error, this information was omitted from Stardust's certificate of public convenience.

The TSA held a hearing on Stardust's tariff modification request and issued an order on December 19, 2001, granting Stardust's request to modify its tariff rate for casino-to-casino direct limousine service on the Laughlin Strip. Desert Cab objected to the TSA's December 19, 2001 order and filed a petition for judicial review with the district court. The district court denied Desert Cab's petition. Desert Cab appeals.

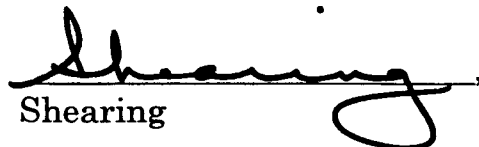
Desert Cab asserts that the TSA exceeded its authority in granting Stardust casino-to-casino direct limousine service. The TSA contends that Desert Cab is procedurally barred from raising this issue, because Desert Cab did not file a petition for judicial review in 1991 when Stardust was originally granted casino-to-casino direct limousine service. We agree with the TSA.

Desert Cab's argument on appeal is that the TSA did not have authority to grant Stardust special service authority of casino-to-casino direct limousine service in Laughlin. Desert Cab did not file a petition for judicial review when Stardust was granted that authority in 1991. NRS 233B.130(2)(c) requires a petition for judicial review to "[b]e filed within 30 days after service of the final decision of the agency." Because Desert Cab never filed a petition for judicial review when the Public Service Commission granted Stardust casino-to-casino direct limousine service, we conclude that Desert Cab is procedurally barred from raising that issue on appeal.

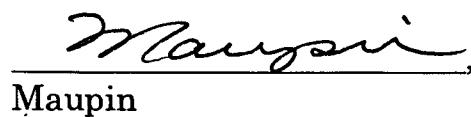
Because Desert Cab is procedurally barred from arguing that the TSA does not have the authority to grant Stardust's casino-to-casino

direct limousine service, we need not address its other arguments.
Therefore, we

ORDER the judgment of the district court AFFIRMED.

 C.J.
Shearing

 J.
Rose

 J.
Maupin

cc: Hon. Lee A. Gates, District Judge
Winner & Carson, P.C.
Attorney General Brian Sandoval/Las Vegas
McDonald Carano Wilson LLP/Las Vegas
Clark County Clerk