

IN THE SUPREME COURT OF THE STATE OF NEVADA

STATE OF NEVADA, DEPARTMENT
OF MOTOR VEHICLES,
Appellant,
vs.
MONICA TAYLOR,
Respondent.

No. 49050

FILED

APR 25 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF REVERSAL

This is an appeal from a district court order granting judicial review in a driver's license revocation matter.¹ Eighth Judicial District Court, Clark County; Elizabeth Halverson, Judge.

Appellant initially revoked respondent's driver's license based on her arrest for driving under the influence on September 10, 2005. Respondent contested this revocation through an administrative hearing, at which the revocation was upheld. Respondent then petitioned the district court for judicial review, which the court granted, reversing the revocation. This appeal followed.

The standard for reviewing petitions for judicial review is the same for this court and the district court, which is whether the agency's decision was an abuse of discretion.² In making this determination,

¹Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

²Weaver v. State, Dep't of Motor Vehicles, 121 Nev. 494, 498, 117 P.3d 193, 196 (2005).

“neither this court nor the district court may go beyond the administrative record or substitute its judgment for that of the administrative agency concerning the weight of the evidence on questions of fact.”³ We do not give any deference to the district court decision when reviewing an order regarding a petition for judicial review.⁴

Based on our review of the record, we conclude that the administrative law judge did not commit an abuse of discretion in upholding the revocation of respondent’s driver’s license. Substantial evidence supported the revocation of respondent’s driver’s license. The sole argument respondent made in the administrative hearing concerned whether respondent was identified by the officer as the person he arrested for driving under the influence of alcohol. The record shows that the officer sufficiently identified respondent.

In her petition for judicial review to the district court, respondent raised several arguments that were not raised during the administrative hearing. Respondent improperly raised these arguments for the first time on appeal, and the district court should not have considered them in its review. Thus, these arguments are waived,⁵ and we will not consider them in this appeal.⁶

³Id.

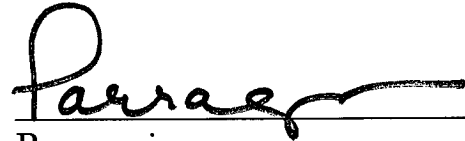
⁴Kay v. Nunez, 122 Nev. 1100, 1105, 146 P.3d 801, 805 (2006).

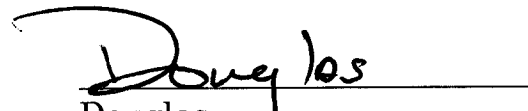
⁵Dubray v. Coeur Rochester Inc., 112 Nev. 332, 337 n.2, 913 P.2d 1289, 1292 n.2 (1996).

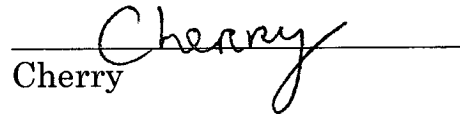
⁶Diamond Enters., Inc. v. Lau, 113 Nev. 1376, 1378, 951 P.2d 73, 74 (1997) (citing Montesano v. Donrey Media Group, 99 Nev. 644, 650 n.5, 668 P.2d 1081, 1085 n.5 (1983)).

As the administrative judge did not commit an abuse of discretion and substantial evidence supports its determination, we

ORDER the district court's order granting the petition for judicial review REVERSED.⁷


Parraguirre J.


Douglas J.


Cherry J.

cc: Eighth Judicial District Court Dept. 23, District Judge
M. Nelson Segel, Settlement Judge
Attorney General Catherine Cortez Masto/Carson City
Attorney General Catherine Cortez Masto/Transportation Division/
Las Vegas
Law Offices of John G. Watkins
Eighth District Court Clerk

⁷Respondent attempts to argue that this court lacks jurisdiction to review the district court's ruling on a petition for judicial review. This argument has been addressed by this court previously and lacks merit. See State, Dep't Mtr. Veh. v. Bremer, 113 Nev. 805, 813-815, 942 P.2d 145, 150-151 (1997); State, Dep't Mtr. Veh. v. Evans, 114 Nev. 41, 43 n.3, 952 P.2d 958, 959 n.3 (1998). We disagree with respondent's contention that these cases should be reversed.