

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDWARD J.P. TIERNEY,

Appellant,

vs.

THE STATE OF NEVADA, BOARD OF
WILDLIFE COMMISSIONERS,

Respondent.

No. 35705

FILED

OCT 12 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing appellant's petition for judicial review based on appellant's failure to file a supporting memorandum of points and authorities as required by NRS 233B.133. The petition sought reversal of respondent's order upholding the State of Nevada Division of Wildlife's denial of appellant's application for a 1999 permit to collect unprotected reptiles for commercial purposes.

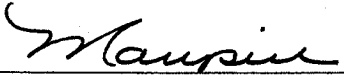
NRS 233B.133(1) requires a petitioner who is seeking judicial review to "serve and file a memorandum of points and authorities within 40 days after the agency gives written notice to the parties that the record of the proceeding under review has been filed with the court."


In May 1999 appellant filed a timely petition for judicial review of respondent's April 1999 order upholding the permit denial, and in June 1999 respondent filed the administrative record with the court and gave appellant written notice of the filing. In October 1999 respondent moved to dismiss the petition because appellant had not filed any memorandum of points and authorities. The court denied the motion, and gave appellant additional time to request

supplementary records¹ from respondent and to file his memorandum of points and authorities. In December 1999 appellant filed with the court a document titled "Prayer for Relief," which contained no authorities and no evidentiary support for his petition. Respondent renewed its motion to dismiss, and the court granted the motion in February 2000.

We conclude the district court did not err by dismissing the petition for judicial review. Although the court gave appellant ample time to file a memorandum supporting his petition, appellant failed to do so. The document filed by appellant provides neither legal nor factual grounds for reversing the administrative decision, which is deemed reasonable and lawful absent proof that it is invalid. See NRS 233B.135.

There being no error, we affirm the order of the district court.


Maupin J.


Leavitt J.


Becker J.

cc: Hon. Valorie J. Vega, District Judge
Attorney General
Edward J.P. Tierney
Clark County Clerk

¹Appellant repeatedly requested a transcript of a 1997 hearing regarding cancellation of a previous collection permit for noncompliance with reporting requirements. Respondent twice provided appellant with a tape recording of the hearing, and explained that the tape recording had never been transcribed. The hearing officer's 1997 order rescinded the cancellation of appellant's 1997 permit, and further ordered that any additional noncompliance with permit reporting requirements would be cause for immediate cancellation of the permit or any similar permit, if issued. Appellant was issued a permit in 1998, but once again he did not comply with collection reporting requirements; consequently, his application for a 1999 collection permit was denied.