

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PATRICK NEWELL,
Appellant,
vs.
THE STATE OF NEVADA
DEPARTMENT OF CORRECTIONS;
AND DWAYNE DEAL (OMA),
Respondents.

No. 74781

FILED

OCT 31 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Patrick Newell appeals from a district court order dismissing his petition for judicial review for lack of jurisdiction. First Judicial District Court, Carson City; James E. Wilson, Judge.

Newell filed a petition for judicial review of a grievance denial while he was incarcerated at Northern Nevada Correctional Center. Respondents filed a motion to dismiss, pursuant to NRS 233B.039(b), asserting that the district court did not have jurisdiction to hear the petition. The district court agreed, dismissed Newell's petition with prejudice, and this appeal followed.

Subject matter jurisdiction is a question of law that we review de novo. *Ogawa v. Ogawa*, 125 Nev. 660, 667, 221 P.3d 699, 704 (2009). A motion to dismiss "may be utilized when a lack of jurisdiction over the subject matter appears on the face of the pleading." *Girola v. Roussille*, 81 Nev. 661, 663, 408 P.2d 918, 919 (1965). Here, it is clear from Newell's petition for judicial review challenging the denial of a prison grievance, that the district court does not have jurisdiction to review NDOC's administrative classification decision via a petition for judicial review of

Newell's prison grievance. *See* NRS 233B.039(b). And on appeal, Newell offers no arguments as to the propriety of the district court's jurisdiction determination, asserting instead that the decision must be reversed because he did not receive a copy of the order granting the dismissal. As our de novo review determined that jurisdiction does not lie with the district court in this matter, we must

ORDER the judgment of the district court AFFIRMED.



Silver

C.J.



Tao

J.



Gibbons

J.

cc: Hon. James E. Wilson, District Judge
Patrick Newell
Attorney General/Carson City
Attorney General/Las Vegas
Carson City Clerk