

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LORRE ANN KANTZ,
Appellant,
vs.
ALVIN MCNEIL, AN INDIVIDUAL;
AND LYON COUNTY SHERIFF,
Respondents.

No. 74207

FILED

AUG 30 2018

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

ORDER VACATING AND REMANDING

Lorre Ann Kantz appeals from a district court order denying a petition for judicial review that concerned the denial of an application for a concealed firearms permit. Third Judicial District Court, Lyon County; Leon Aberasturi, Judge.

Kantz petitioned for judicial review of respondent Lyon County Sheriff Alvin McNeil's denial of her application for a concealed firearms permit. At the time of filing, Kantz served the petition on McNeil, but she did not serve the petition on the Nevada Attorney General. McNeil later moved to dismiss Kantz's petition, arguing that he acted within his statutory authority under NRS 202.3657(4) and (5),¹ which set forth various grounds for a sheriff to deny a concealed firearms permit. The district court agreed and denied Kantz's petition. This appeal followed.

¹NRS 202.3657 was amended effective May 22, 2017, 2017 Nev. Stat., ch. 54, § 1, at 212-14, but that amendment does not affect the disposition of this appeal, as it was enacted after McNeil denied Kantz's petition and is not otherwise relevant to the disposition of this matter.

On appeal, Kantz presents extensive argument with regard to the propriety of the district court denying her petition based on NRS 202.3657(4) and (5). We need not resolve those arguments, however, because the district court lacked jurisdiction to consider Kantz's petition in the first place. See *Heat & Frost Insulators & Allied Workers Local 16 v. Labor Comm'r*, 134 Nev. ___, ___, 408 P.3d 156, 159 (2018) (explaining that Nevada's appellate courts review questions of law arising in the context of a petition for judicial review de novo); see also *Ogawa v. Ogawa*, 125 Nev. 660, 667, 221 P.3d 699, 704 (2009) (providing that jurisdiction is a question of law subject to de novo review).

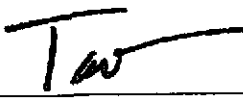
In particular, when Kantz filed her petition for judicial review, she was required to comply with the procedures set forth in NRS Chapter 233B, which is Nevada's Administrative Procedure Act. See NRS 202.3663 (providing that judicial review of a sheriff's decision with regard to an application for a concealed firearms permit "must be conducted in accordance with the procedures set forth in chapter 233B of [the] NRS for reviewing a final decision of an agency"). As recently recognized by the supreme court in *Heat*, NRS Chapter 233B includes a "mandatory and jurisdictional" service requirement. 134 Nev. at ___, 408 P.3d at 159. Specifically, NRS 233B.130(2)(c) and (5) provide that a petition for judicial review must be served on, as relevant here, the Nevada Attorney General, or a designated representative, at the Office of the Attorney General in Carson City within 45 days after the filing of the petition.


Because nothing in the record indicates that Kantz served her petition on the Nevada Attorney General within her time for so doing, the

district court lacked jurisdiction to hear her petition.² See NRS 233B.130(2)(c), (5); *Heat*, 134 Nev. at ___, 408 P.3d at 159 (providing that failure to comply with NRS 233B.130(2)(c)(1) requires dismissal absent a showing of good cause in accordance with NRS 233B.130(5)). Consequently, we vacate the district court's order denying Kantz's petition for judicial review and remand this matter to the district court for further proceedings consistent with this order and *Heat*.

It is so ORDERED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Leon Aberasturi, District Judge
Lorre Ann Kantz
Lyon County District Attorney
Third District Court Clerk

²Neither the parties nor the district court addressed the service issue during the underlying proceeding, presumably because they did not have the benefit of *Heat*, which was entered after Kantz filed her notice of appeal.