

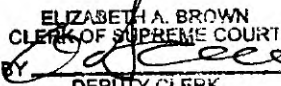
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRIAN NELSON; AND TERRY  
NELSON,  
Appellants,  
vs.  
SHARATH CHANDRA,  
ADMINISTRATOR, REAL ESTATE  
DIVISION; THE STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND  
INDUSTRY; AND THE NEVADA REAL  
ESTATE COMMISSION,  
Respondents.

No. 84170-COA

**FILED**

JUL 21 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Brian and Terry Nelson appeal from a district court order granting a motion to dismiss their petition for judicial review. Second Judicial District Court, Washoe County; Tammy Riggs, Judge.

Brian and Terry, a married couple, were licensed real estate brokers. The State of Nevada Department of Business and Industry, Real Estate Division (Division) initiated separate disciplinary proceedings against Brian and Terry before the Nevada Real Estate Commission (Commission) in response to a complaint filed by a licensed Nevada real estate agent regarding Brian and Terry's real estate practices. Following a hearing in the proceedings against Terry, the Commission entered an order fining Terry and revoking her real estate license. She filed a petition for judicial review, which the district court denied after finding that substantial evidence supported the Commission's order. Terry appealed that decision to this court, and we affirmed the denial of her petition. *Nelson v. Chandra*, No. 81019-COA, 2021 WL 5356299 (Nev. Ct. App. Nov. 15, 2021).

Following a separate hearing, the Commission entered an order fining Brian and revoking his real estate license. Although the proceedings

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against Terry were resolved separately, Brian and Terry jointly filed a petition for judicial review challenging the Commission's order. Respondents (Sharath Chandra, the administrator of the Division; the Division; and the Commission) filed a motion to dismiss the petition pursuant to NRCP 12(b)(1) (lack of subject-matter jurisdiction).

The district court subsequently entered an order granting the motion to dismiss, over Brian and Terry's opposition, after concluding that Terry lacked standing to challenge the Commission's order against Brian because the proceedings against him were separate from those against her and, therefore, she was not an aggrieved party. Additionally, the court determined that dismissal was warranted because Brian and Terry (1) failed to submit a transcript of the proceedings before the Commission, as required by NRS 233B.131(1)(a) (providing that the filing party shall transmit the transcript of evidence to the reviewing court), and (2) failed to file a memorandum of points and authorities with their initial petition in contravention of NRS 233B.133(1) (requiring the petitioner to file a memorandum of points and authorities).

On appeal, Brian and Terry generally challenge the disciplinary proceedings initiated below and assert that the Division unfairly targeted their brokerage business.


Here, appellants' brief challenges the validity of the underlying disciplinary proceedings but fails to offer any argument as to the actual bases for the district court's decision. Specifically, the court ruled that Terry lacked standing, and by failing to address this, she has waived any challenge to this determination and thus conceded this point. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that issues not raised on appeal are deemed waived). Similarly, Brian and Terry did not address the district court's conclusion that their failure to submit transcripts and file a memorandum warranted

dismissal, and they have therefore waived any challenges to the same.<sup>1</sup> See *id.* Under these circumstances, we necessarily

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Bulla

  
\_\_\_\_\_, J.  
Westbrook

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<sup>1</sup>We note that the district court incorrectly determined that the failure to file transcripts and a memorandum of points and authorities deprived it of jurisdiction over the petition. See *Fitzpatrick v. State, Dep't of Commerce, Ins. Div.*, 107 Nev. 486, 488-89, 813 P.2d 1004, 1005-06 (1991) (explaining that the time allotted for filing a petition for judicial review is jurisdictional but filing the memorandum of points and authorities pursuant to NRS 233B.133 is not); *Toman v. Nev. Transp. Auth.*, No. 77156-COA, 2019 WL 6381880 (Nev. Ct. App. Nov. 27, 2019) (Order of Affirmance) (relying on *Fitzpatrick*); see also *LVMPD v. Dep't of Bus. and Indus., Div. of Indus. Relations*, No. 83262-COA, No. 2022 WL 2340431 (Nev. Ct. App. June 28, 2022) (Order of Reversal and Remand) (rejecting the argument that the transcript requirement is jurisdictional and reversing a dismissal for failure to file the transcript because it was too harsh).

Despite reaching this conclusion, the district court acknowledged in its order that it had discretion to extend the statutory deadlines for transmitting the transcript and filing the memorandum. But the court declined to do so because Brian and Terry did not request an extension to transmit the transcript, and it did not find good cause to extend the time frame for filing the memorandum. Under these circumstances, and given that Brian and Terry have not addressed whether their failure to file these materials warranted dismissal, the court's error in concluding it lacked jurisdiction is harmless. *Cf.* NRC 61 (providing that the court must disregard all errors that do not affect a party's substantial rights).

cc: Hon. Tammy Riggs, District Judge  
Brian Nelson  
Terry Nelson  
Attorney General/Carson City  
Attorney General/Las Vegas  
Washoe District Court Clerk