

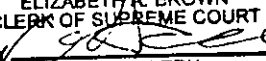
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIENE HUGHES DAVIS,
Appellant,
vs.
FEDEX GROUND PACKAGE SYSTEMS
INC.,
Respondent.

No. 89282-COA

FILED

JUN 05 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Williene Hughes Davis appeals from a district court order dismissing her petition for judicial review. First Judicial District Court, Carson City; James Todd Russell, Judge.

Davis injured her shoulder while at work on March 13, 2019. On December 29, 2022, Davis's doctor opined that she was at maximum medical improvement and was stable and ratable. On January 19, 2023, Davis underwent a functional capacity evaluation where she received a 10-pound lifting restriction and learned she was unable to return to her pre-accident employment. Davis appealed this determination and underwent a second functional capacity evaluation, which determined she had not reached maximum medical improvement nor was she stable and ratable. Davis's doctor reviewed the reports and concluded Davis was at maximum medical improvement. Based on this finding, Sedgwick CMS, which administered respondent FedEx's workers' compensation claims, issued a decision terminating Davis's temporary total disability payments and vocational rehabilitation benefits.

Davis requested a hearing with a third-party administrator hearing officer to review Sedgwick's decision. The hearing officer affirmed

Sedgwick's decision to cease vocational rehabilitation benefits but ordered Sedgwick to resume paying temporary total disability payments. FedEx, as a self-insured employer, appealed the decision and it was assigned to an appeals officer with the Nevada Department of Administration. Following a hearing, the appeals officer reversed the hearing officer's decision and found Davis was not entitled to vocational rehabilitation benefits nor was she entitled to temporary total disability benefits.

On February 20, 2024, Davis filed a petition for judicial review that named only FedEx and the Department of Administration as respondents. Davis subsequently filed a notice of service that stated she served FedEx and the Department of Administration via prepaid postage on February 24, 2024. FedEx subsequently brought a motion to dismiss, which argued the petition should be dismissed because: (1) it failed to name Sedgwick despite Sedgwick being a party to the administrative hearings; (2) Davis failed to serve the director of the Department of Administration within 45 days of the filing of the petition; and (3) she failed to serve the Nevada Attorney General's Office within 45 days of the filing of the petition. Davis did not file an opposition but instead filed a notice of service that stated she served the director of the Department of Administration, Jack Robb, by mail, on May 17, 2024.

The district court subsequently granted the motion to dismiss as unopposed pursuant to FJDCR 3.8(b). Further, the district court concluded that Sedgwick was a required party and the failure to name them as a respondent rendered the petition jurisdictionally deficient. Finally, the district court found Davis failed to serve the Director of the Department of Administration or the Nevada Attorney General's Office within 45 days and thus dismissal was mandatory. Davis filed a motion for reconsideration,

which argued she was not required to name Sedgwick because FedEx participated in the administrative process and that, because she had completed service prior to the district court's ruling on the motion to dismiss, any service argument was moot. The district court denied the motion and Davis now appeals.

We review an order granting a motion to dismiss for failure to effect timely service of process for an abuse of discretion. *Abreu v. Gilmer*, 115 Nev. 308, 312-13, 985 P.2d 746, 749 (1999). We likewise review an order granting a motion to dismiss a petition for judicial review as unopposed for an abuse of discretion. *See State, Dep't of Motor Vehicles & Pub. Safety v. Moss*, 106 Nev. 866, 868, 802 P.2d 627, 628 (1990) (reviewing a district court order that dismissed a petition for judicial review based on similar language contained in a prior version of EDCR 2.20(e) for an abuse of discretion).

On appeal, Davis's informal brief primarily discusses the proceedings before the appeals officer and fails to address the fact that she did not file an opposition to the motion to dismiss her petition for judicial review and the district court's resulting dismissal of the petition based, in part, on the ground that the motion to dismiss was unopposed. Because Davis has failed to challenge this alternative ground on which the district court dismissed her petition, this failure supports affirming the challenged order. *See Hung v. Genting Berhad*, 138 Nev. 547, 547-48, 513 P.3d 1285, 1286 (Ct. App. 2022) (stating that, when a district court resolves a case on multiple grounds and the appellant fails to challenge each alternative ground on appeal, those challenges are waived, "thereby foreclosing [the] appeal as it concerns the district court's. . . ruling"). Further, because the record confirms Davis did not file an opposition, even if Davis had raised this point, we would not be persuaded that the district court abused its

discretion by granting FedEx's motion to dismiss her petition for judicial review as unopposed.


We further note Davis's informal opening brief likewise fails to address the finding that dismissal was mandated by NRS 233B.130(2)(c)(1),(2) and NRS 233B.130(5) because she failed to serve the director of the Department of Administration or the Nevada Attorney General's Office within 45 days of the filing of the petition. As a result, she has waived any challenge to the district court's dismissal of her petition on these grounds. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161, n.3, 252 P.3d 668, 672 n.3 (2011) (providing that arguments not raised on appeal are deemed waived).


But even if we were to consider this issue, affirmance would still be required. NRS 233B.130(5) requires that a petition for judicial review be served upon the agency and every party within 45 days of the filing of the petition, absent good cause. Although NRS 233B.130(5)'s service requirement is not jurisdictional because the statute grants the district court authority to extend the deadline for good cause, dismissal is required if the court does not extend the time for service. *See Spar Bus. Servs., Inc. v. Olson*, 135 Nev. 296, 300-01, 448 P.3d 539, 543 (2019); *see also Heat & Frost Insulators & Allied Workers Loc. 16 v. Lab. Cmm'r.* 134 Nev. 1, 4-5, 408 P.3d 156, 159-60 (2018). Here, not only did the district court not extend the time to complete service, but Davis failed to file a motion to extend the service deadline.

Thus, based on the reasoning set forth above, we affirm the district court's order dismissing the petition for judicial review.¹

It is so ORDERED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: First Judicial District Court, Department One
Williene Hughes Davis
Hooks Meng & Clement
Carson City Clerk

¹Insofar as Davis raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.