

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Mar 11 2021 04:26 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

CHARLES ROCHA,

Supreme Court No. 82485

District Court Case No: A-19-804209-J

Appellant,

vs.

THE STATE OF NEVADA,
DEPARTMENT OF HEALTH AND
HUMAN SERVICES, DIVISION
PUBLIC AND BEHAVIORAL
HEALTH

Respondents.

RESPONDENT'S RESPONSE TO DOCKETING STATEMENT

ATTORNEY FOR RESPONDENT

AARON D. FORD
Attorney General
SUSANNE M. SLIWA
Deputy Attorney General
555 E. Washington Avenue, #3900
Las Vegas, Nevada 89101

ATTORNEY FOR APPELLANT

ADAM LEVINE, ESQ.
Law Office of Daniel Marks.
610 S. 9th Street
Las Vegas, NV 89101

I. JURISDICTIONAL STATEMENT

This appeal is untimely. Appellant's Docketing Statement clearly states that the District Court order being appealed was served on July 20, 2020. Appellant did not file a Notice of Appeal until February 11, 2021. Pursuant to NRAP 4(a)(1), a Notice of Appeal must have been filed within 30 days after the written notice of that order.

Appellant's contention that the order was not appealable because it remanded the matter for further proceedings is without merit.

The inclusion of the term "remand" in an order does not change the substantive finality with regard to the issue actually presented to the District Court. *Bally's Grand Hotel & Casino v. Reeves*, 112 Nev. 1487, 929 P.2d 936 (1996). In this case, the District Court's order remanded the matter to the administrative Hearing Officer so that the proper standard of review (client abuse as opposed to use of force) could be applied. That standard of review is what Appellant is specifically appealing. The Notice of Appeal was not filed in a timely manner and this appeal should be dismissed.

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the type face requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in proportional spaced typeface using Microsoft Word 2010 in Times New Roman in 14 point font size. I further certify that his brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it does not exceed thirty (30) pages. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

AARON D. FORD
Attorney General

By: /s/ Susanne Sliwa
Susanne M. Sliwa
Deputy Attorney General
Nevada Bar No.:4753

CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Office of the Attorney General and that on the 11th day of March, 2021, I served a copy of the foregoing RESPONSE TO DOCKETING STATEMENT by placing a copy of said document in the Nevada State Department of General Services for Mailing, addressed to:

Adam Levine, Esq.
Law Office of Daniel Marks
610 South 9th Street
Las Vegas, NV 89101
office@danielmarks.net

Kristine M. Kuzemka, Esq.
Settlement Judge
Advanced Resolution Management
6980 S. Cimarron Road, Ste. 210
Las Vegas, NV 89113
kkuzemka@armadr.com

/s/ Lanette Davis
An Employee of the Office of the Attorney General