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Nev. Gaming Comm'n v. Wynn, 138 Nev. Adv. Op. 20 (Mar. 31, 2022)

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DISTRICT COURT LACKS JURISDICTION TO ENTERTAIN WRIT PETITION AND TO
REVIEW MOTION TO DISMISS BY THE NEVADA GAMING COMMISSION

SUMMARY

The Court examined whether NRS 463.318(2),² which states that judicial review is the exclusive method of review for Nevada Gaming Commission (“Commission”) actions, precluded Stephen Wynn’s writ of prohibition that argued the Commission and Nevada Gaming Control Board (“Board”) lacked jurisdiction over Wynn in his disciplinary proceeding. The Court also considered whether an order by the Commission denying Wynn’s motion to dismiss was “final” under NRS 463.315(1), which entitles a person subject to the Commission’s disciplinary proceedings to judicial review of the Commission’s final order.³ Pursuant to NRS 463.318(2), the Court found the district court lacked jurisdiction to review Wynn’s petition.⁴ The Court also found the district court further lacked jurisdiction pursuant to NRS 463.315(1) because the Commission’s denial of Wynn’s motion to dismiss was not “final.”⁵

BACKGROUND

For approximately thirteen years, Stephen Wynn was the CEO, Board of Directors Chairman, and controlling shareholder of Wynn Resorts. Because of his role with Wynn Resorts, Wynn obtained a finding of suitability from the Commission. This allowed Wynn to perform work in the various aspects of Wynn Resorts’ gaming business. In early 2018, the *Wall Street Journal* published an article in which several Wynn Resorts’ employees accused Wynn of sexual misconduct during his thirteen years as CEO and Chairman. Following this publication, Wynn resigned as CEO and Chairman of Wynn Resorts, signed a separation agreement with the company, and sold his shares of stock.

A few months after Wynn’s separation with Wynn Resorts, the Board sent notice to Wynn of its intent to require him to testify at an investigative hearing. Wynn’s attorneys communicated back and forth with the Board and Commission until the latter party did not respond. Wynn did not appear to testify. Consequently, the Board argued that Wynn’s alleged sexual misconduct and failure to appear to testify constituted multiple violations of Nevada gaming statutes. Wynn moved to dismiss for lack of jurisdiction because he no longer held a gaming license at the time the Board filed the complaint. However, the Commission denied Wynn’s motion. Wynn then filed a petition for judicial review or, in the alternative, for a writ of prohibition.

The district court denied Wynn’s petition for judicial review. However, it granted Wynn’s petition for a writ of prohibition, reasoning that the Board and Commission had exceeded their jurisdiction in the disciplinary action against Wynn because he was no longer involved with Wynn Resorts. The Board and Commission appealed.

¹ By Brenna Irving.

² NEV. REV. STAT. § 463.318 (2013).

³ NEV. REV. STAT. § 463.315 (1983).

⁴ § 463.318.

⁵ § 463.315.

DISCUSSION

The district court lacked jurisdiction to entertain Wynn's petition for writ relief

The Court reviewed the district court's decision *de novo*.⁶ Employing principles of statutory interpretation, the Court stated that the plain language of NRS 463.315(2)⁷ only allows a district court to review the Commission's disciplinary decisions *after* the Commission issues a final order. The Court also stated that NRS 463.318(2)⁸ expressly precludes writ relief because the statute provides that judicial review under 463.315(1)⁹ is the exclusive method of obtaining review of the Commission's actions.¹⁰ The Court reasoned this conclusion—that writ relief is precluded—was consistent with the statutory interpretation rule that a specific statute controls over a general statute¹¹ and was also consistent with the Court's precedent limiting judicial intervention into the Commission's disciplinary decisions.¹²

The district court lacked jurisdiction to entertain Wynn's petition for judicial review under NRS 463.315(1)

The Court stated that the district court could only properly review Wynn's petition as one for judicial review, and only if the Commission's order denying Wynn's motion to dismiss was final under NRS 463.315(1).¹³ An order is only final, the Court noted, if it disposes of all the issues presented in a case.¹⁴ The Court reasoned that because the Commission denied Wynn's motion to dismiss for lack of jurisdiction, it did not dispose of all the issues presented.¹⁵ Reversing the district court in part, the Court found that the Commission's order was not final and the district court lacked jurisdiction to review Wynn's petition.

CONCLUSION

The Court concluded that the district court lacked jurisdiction to review Wynn's petition for writ of prohibition, but that the district court properly found the Commission's order denying Wynn's motion to dismiss was not "final." Accordingly, the Court held that NRS 463.318(2)¹⁶ precluded writ relief in this case and that judicial review petitions filed under NRS 463.315(1)¹⁷ are limited to challenging the Commission's final orders on disciplinary matters.

⁶ Pawlik v. Deng, 134 Nev. 83, 85, 412 P.3d 68, 70–71 (2018).

⁷ § 463.315.

⁸ § 463.318.

⁹ § 463.315.

¹⁰ See generally Crane v. Cona Tel. Co., 105 Nev. 399, 401, 775 P.2d 705, 706 (1989).

¹¹ See Piroozi v. Eighth Jud. Dist. Ct., 131 Nev. 1004, 1009, 363 P.3d 1168, 1172 (2015).

¹² See State v. Eighth Jud. Dist. Ct, 111 Nev. 1023, 1025, 899 P.2d 1121, 1122 (1995).

¹³ § 463.315.

¹⁴ Cf. Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000).

¹⁵ See Resnick v. Nev. Gaming Comm'n, 104 Nev. 60, 63, 752 P.2d 229, 231 (1988).

¹⁶ § 463.318.

¹⁷ § 463.315.