

SUPREME COURT OF IDAHO

Erickson v. Idaho Board of Registration of Professional Engineers & Professional Land Surveyors, 146 Idaho 852

203 P.3d 1251 (2009) · No. No. 34593 · Decided March 5, 2009

SUMMARY

The Idaho Supreme Court held that a petition for judicial review of an agency order was untimely under Idaho Code § 67-5273(2). Because the petition was filed two days after the statutory deadline, the district court lacked jurisdiction to review the Idaho Board of Registration's dismissal of the complaint. The court vacated the district court's judgment and remanded with directions to dismiss the petition for judicial review.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	Eismann, Chief Justice; Burdick; J. Jones; W. Jones; Horton
JURISDICTION	Idaho
DECIDED	March 5, 2009
DOCKET	No. 34593
DISPOSITION	vacated
PROCEDURAL POSTURE	Alan Soderling appealed from the Idaho district court's decision on a petition for judicial review of an agency action. The Supreme Court of Idaho raised the timeliness and subject-matter-jurisdiction issue sua sponte.
STANDARD OF REVIEW	Subject-matter jurisdiction and statutory timeliness are reviewed as jurisdictional issues; the Court may raise subject-matter jurisdiction sua sponte.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Alan Soderling v. Marvin Erickson, Idaho Board of Registration of Professional Engineers and Professional Land Surveyors

TOPICS

judicial review of agency action

administrative procedure act

appellate jurisdiction

subject matter jurisdiction

statutory interpretation

PRACTICE AREAS

administrative law

appellate procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether the petition for judicial review was timely under Idaho Code section 67-5273(2).
2. Whether the statutory twenty-eight-day period ran from issuance of the Board's initial final order or from service of that order.
3. Whether the district court and the Supreme Court had jurisdiction to review the agency action when the petition for judicial review was untimely.

HOLDINGS

1. The petition was untimely because it was filed on July 12, 2006, two days after the July 10, 2006 deadline calculated from the Board's June 10 decision on reconsideration.
2. The May 12, 2006 order dismissing Erickson's complaint was the final order for purposes of section 67-5273(2); the June 10 order was the decision on reconsideration and could not also be the final order being reconsidered.
3. The statutory term 'issuance' means the date the agency order was signed and issued, not the date the order was served.
4. An untimely petition for judicial review is jurisdictionally barred, requiring dismissal of the petition and depriving both the district court and the Supreme Court of jurisdiction to review the merits.

KEY QUOTATIONS

"Because the petition for review was not timely filed, we vacate the judgment of the district court and dismiss this appeal." (203 P.3d at 1252)

"The filing of a petition for judicial review within the time permitted by statute is jurisdictional." (203 P.3d at 1253)

"The final order would be the initial final order, which in this case is the order that Erickson sought to have reconsidered." (203 P.3d at 1254)

"Therefore, because the legislature changed "service" to "issuance," the word "issuance" clearly does not mean service." (203 P.3d at 1255)

"On remand, the district court shall dismiss the petition for judicial review." (203 P.3d at 1256)

FACTUAL BACKGROUND

Erickson filed a verified complaint alleging that professional engineer Alan Soderling had violated Board rules. The Board dismissed the complaint on May 12, 2006, and denied Erickson's motion for reconsideration on June 10, 2006. Erickson filed his petition for judicial review on July 12, 2006, although the statutory deadline, calculated from the June 10 decision on reconsideration, was July 10, 2006.

PROCEDURAL HISTORY

The Idaho Board dismissed Erickson's professional-conduct complaint and denied Erickson's motion for reconsideration. Erickson filed a petition for judicial review on July 12, 2006. The district court denied Soderling's motion to dismiss the petition as untimely, later ruled on the merits, and held that Erickson could refile his complaint. Soderling appealed, and the Supreme Court held that the petition was filed two days late, vacated the district court's judgment, dismissed the appeal, and remanded with directions to dismiss the petition for judicial review.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The case was remanded to the district court with directions to dismiss the petition for judicial review. Costs on appeal were awarded to the respondents.

CASES CITED

- Horne v. Idaho State University, 138 Idaho 700, 703, 69 P.3d 120, 123 (2003)
- Canyon County Bd. of Equalization v. Amalgamated Sugar Co., LLC, 143 Idaho 58, 62, 137 P.3d 445, 449 (2006)
- In re Quesnell Dairy, 143 Idaho 691, 693, 152 P.3d 562, 564 (2007)
- Cather v. Kelso, 103 Idaho 684, 652 P.2d 188 (1982)
- Swinehart v. Turner, 36 Idaho 450, 452, 211 P. 558, 559 (1922)
- Camp v. East Fork Ditch Co., Ltd., 137 Idaho 850, 867, 55 P.3d 304, 321 (2002)
- Idah-Best, Inc. v. First Security Bank of Idaho, N.A., 99 Idaho 517, 519, 584 P.2d 1242, 1244 (1978)
- Westway Constr., Inc. v. Idaho Transp. Dept., 139 Idaho 107, 73 P.3d 721 (2003)
- Athay v. Stacey, 142 Idaho 360, 366, 128 P.3d 897, 903 (2005)
- DeRousse v. Higginson, 95 Idaho 173, 176, 505 P.2d 321, 324 (1973)