

IN THE UTAH COURT OF APPEALS

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James O. Kennon and Dick)	MEMORANDUM DECISION
Cumiskey,)	(Not For Official Publication)
)	
Petitioners,)	Case No. 20060778-CA
)	
v.)	F I L E D
)	(December 7, 2006)
)	
Air Quality Board and Sevier)	2006 UT App 486
Power Company,)	
)	
Respondents.)	

Original Proceeding in this Court

Attorneys: James O. Kennon, Richfield, and Dick Cumiskey, Monroe, Petitioners Pro Se
Mark L. Shurtleff and Fred G. Nelson, Salt Lake City, for Respondent Air Quality Board

Before Judges Bench, Billings, and Thorne.

PER CURIAM:

James O. Kennon and Dick Cumiskey petition for review of the Air Quality Board's (the Board) final decision issued August 7, 2006.

The Board initially filed a motion to dismiss the petition on the basis that Kennon and Cumiskey were not proper parties herein. Based on their response to the motion to dismiss, the court allowed Kennon and Cumiskey to substitute themselves with the real party in interest pursuant to rule 38(b) of the Utah Rules of Appellate Procedure. See Utah R. App. P. 38(b). Kennon and Cumiskey subsequently substituted Sevier Citizens for Clean Air and Water, Inc. (Sevier Citizens) as the real party in interest. However, the court noted that Sevier Citizens was an incorporated entity. Accordingly, the court ordered Sevier Citizens to file an amended docketing statement by and through counsel. Rather than obtain counsel, Kennon and Cumiskey have now filed a response to this court's order, requesting this court to "reinstate" them as pro se petitioners.

As the Board noted in its initial motion to dismiss, Kennon and Cumiskey were not parties to the proceedings below. Pursuant to Utah Code section 63-46b-14, only "[a] party aggrieved may obtain judicial review of final agency action." Utah Code Ann. § 63-46b-14(1) (2004). Thus, Kennon and Cumiskey, as individuals, may not file a petition for review. Moreover, as this court explained in its previous order, Sevier Citizens's status as a corporation "precludes self-representation because corporations are artificial entities that are not allowed to represent themselves in court." Hartford Leasing Corp. v. State, 888 P.2d 694, 700 (Utah Ct. App. 1994). In addition, "[a] nonlawyer may not undertake legal representation of a corporate litigant." DeBry v. Cascade Enters., 879 P.2d 1353, 1362 (Utah 1994). Instead, it is well settled in Utah that "a corporate litigant must be represented in court by a licensed attorney." Tracy-Burke Assocs. v. Dep't of Employment Sec., 699 P.2d 687, 688 (Utah 1985) (per curiam). Because Kennon and Cumiskey have failed to obtain counsel, we must dismiss this petition. See id.

Accordingly, we dismiss the petition.

Russell W. Bench,
Presiding Judge

Judith M. Billings, Judge

William A. Thorne Jr., Judge