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1           **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

Court of Appeals of New Mexico  
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3 Filing Date: May 21, 2026



Mark Reynolds

4 **No. A-1-CA-42734**

5 **DAMIAN LARA, in his official capacity**  
6 **as Bernalillo County Assessor,**

7           Petitioner-Appellant,

8 v.

9 **PRESBYTERIAN HEALTHCARE**  
10 **SERVICES,**

11           Respondent-Appellee.

12 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**  
13 **Denise Barela Shepherd, District Court Judge**

14 NM Local Government Law LLC  
15 Charles Rennick  
16 Lea Corinne Strife  
17 Kenneth J. Tager  
18 Albuquerque, NM

19 for Appellant

20 Rodey, Dickason, Sloan, Akin & Robb, P.A.  
21 Edward Ricco  
22 John P. Salazar  
23 Kara B Murphy  
24 Albuquerque, NM

25 for Appellee

1 **OPINION**

2 **WRAY, Judge.**

3 {1} In the district court, Petitioner Damian Lara, in his official capacity as  
4 Bernalillo County Assessor (the Assessor), (1) appealed the final decision of the  
5 Bernalillo County Valuation Protests Board (the Board) that Respondent  
6 Presbyterian Healthcare Services (the Hospital) qualified for certain tax exemptions  
7 for real property under the Hospital Equipment Loan Act (HELA), NMSA 1978,  
8 §§ 58-23-1 to -32 (1983, as amended through 2006); and (2) challenged the  
9 constitutionality of the tax exemption statutes, which was an issue that the Board  
10 had determined it lacked jurisdiction to decide. The district court sua sponte certified  
11 to this Court the following question as a matter of substantial public interest: “[D]oes  
12 Article VIII, Section 3 of the New Mexico Constitution authorize the Legislature to  
13 create the property tax exemptions at Section 58-23-29(B) and [NMSA 1978,  
14 Section 7-36-3(C) [(2019)]?” See NMSA 1978, § 39-3-1.1(F) (1999) (“The district  
15 court may certify to the [C]ourt of [A]ppeals a final decision appealed to the district  
16 court, but undecided by that court, if the appeal involves an issue of substantial  
17 public interest that should be decided by the [C]ourt of [A]ppeals.”); Rule 1-075(S)  
18 NMRA (same). The question whether the Hospital qualified for the tax exemption  
19 under the statute, decided in the first instance by the Board, arose under the district  
20 court’s appellate jurisdiction. But the Board did not decide the constitutional

1 question, which was presented to the district court to decide in the exercise of its  
2 original jurisdiction. Without a decision from the Board in the first instance, Section  
3 39-3-1.1(F) does not contemplate certification by the district court to this Court. We  
4 conclude that we lack jurisdiction and dismiss this appeal.

5 **BACKGROUND**

6 {2} The following facts are undisputed. The Hospital owns a three-story parking  
7 garage as part of its medical campus located in Albuquerque, New Mexico. The  
8 parking garage was financed with proceeds of bonds issued pursuant to HELA. The  
9 Hospital paid property taxes on the property in 2022, but in 2023, the Hospital valued  
10 its property at zero dollars and claimed HELA tax exemptions. For that same period,  
11 the Assessor valued the property at over ten million dollars.

12 {3} The Assessor denied the Hospital’s claim to the HELA exemptions, and the  
13 Hospital appealed the Assessor’s decision to the Board. Before the Board, the  
14 Assessor argued (1) that the Hospital did not properly apply or qualify for the HELA  
15 exemptions; and (2) that the HELA exemptions were unconstitutional. The Board  
16 concluded that the Hospital qualified for the property tax exemption under the terms  
17 of the statute, but did not address the Assessor’s constitutional argument. While the  
18 Board acknowledged that the instant protest was similar to previous cases where  
19 courts had reviewed “a statutory tax exemption that is not fully congruent with a

1 constitutional basis for [a] tax exemption,” the Board concluded that the  
2 “constitutional question [was] beyond its purview.”

3 {4} The Assessor appealed the Board’s decision to the district court. The Assessor  
4 argued that the Board erred by finding that the Hospital qualified for the HELA  
5 exemptions and also reasserted the argument that the HELA exemptions were  
6 unconstitutional under Article VIII, Section 3 of the New Mexico Constitution. After  
7 briefing by the parties, the district court (1) exercised its appellate jurisdiction to  
8 conclude that the Board’s determination that the Hospital qualified for the HELA  
9 exemptions was supported by substantial evidence and was neither arbitrary nor  
10 capricious; and (2) noted that the constitutional challenge had not been decided by  
11 the Board and that the issue arose under the district court’s original jurisdiction. The  
12 district court did not exercise its original jurisdiction to consider and decide the  
13 constitutional question de novo but instead found that the undecided constitutional  
14 question “is an issue of substantial public interest” and certified the issue to this  
15 Court. *See* § 39-3-1.1(F); Rule 1-075(S); *see also El Castillo Ret. Residences v.*  
16 *Martinez (El Castillo)*, 2017-NMSC-026, ¶ 23, 401 P.3d 751 (“On appeal to a  
17 district court of claims first considered by an agency, where the appeal also asserts  
18 constitutional and other claims in the district court that were beyond the scope of the  
19 agency’s adjudicative authority, the district court should consider each claim  
20 according to its appropriate standard of review and maintain the distinction between

1 the court’s appellate and original jurisdiction in rendering its decision.” (internal  
2 quotation marks and citation omitted)).

3 **DISCUSSION**

4 {5} We requested supplemental briefing from the parties regarding our  
5 jurisdiction under Rule 1-075(S) and Section 39-3-1.1(F). *See Smith v. City of Santa*  
6 *Fe*, 2007-NMSC-055, ¶ 10, 142 N.M. 786, 171 P.3d 300 (“[I]t is incumbent upon  
7 the appellate court to raise jurisdiction questions sua sponte when the Court notices  
8 them.”). Specifically, we asked the parties to brief whether this Court has jurisdiction  
9 to address a matter certified by the district court under the certification rules when  
10 the certified issue is solely related to a matter arising under the district court’s  
11 original, rather than appellate, jurisdiction and no decision on the issue was made by  
12 the Board. This question, a legal one that we review de novo, *see El Castillo*, 2017-  
13 NMSC-026, ¶ 20, is rooted in the fundamental principles of a district court’s  
14 jurisdiction in relation to the decisions of administrative agencies, and we therefore  
15 begin with those principles.

16 {6} The district court has two distinct types of jurisdiction over the decisions of  
17 agencies: appellate jurisdiction and original jurisdiction. *See* N.M. Const. Art. VI,  
18 § 13 (“The district court shall have original jurisdiction in all matters and causes not  
19 excepted in [the C]onstitution, and such jurisdiction of special cases and proceedings  
20 as may be conferred by law, and appellate jurisdiction of all cases originating in

1 inferior courts and tribunals in their respective districts as provided by law, and  
2 supervisory control over the same.”); *VanderVossen v. City of Española*, 2001-  
3 NMCA-016, ¶¶ 13-14, 130 N.M. 287, 24 P.3d 319 (distinguishing the grants of  
4 original and appellate jurisdiction). First, the district court exercises its appellate  
5 jurisdiction to review a decision an agency has made. *See* § 39-3-1.1(C), (D); Rule  
6 1-074(A) NMRA (addressing appeals from administrative agencies when there is a  
7 statutory right to review by the district court); Rule 1-075(A) (governing  
8 discretionary review by the district courts of administrative agency decisions when  
9 there is no statutory right to review); *see also* *Martinez v. N.M. State Eng’r Office*,  
10 2000-NMCA-074, ¶ 48, 129 N.M. 413, 9 P.3d 657 (noting “that in administrative  
11 appeals the district court is a reviewing court, not a fact-finder”). Second, the district  
12 court may exercise its broad original jurisdiction over issues that are related to, but  
13 beyond the scope of, the agency’s authority to decide. *See* *Maso v. N.M. Tax’n &*  
14 *Revenue Dep’t*, 2004-NMCA-025, ¶¶ 12-17, 135 N.M. 152, 85 P.3d 276. The district  
15 court may exercise both appellate and original jurisdiction in the same case even  
16 though the issues involve “the same parties and same general subject matter.” *See*  
17 *id.* ¶ 17 (internal quotation marks and citation omitted).

18 {7} Though the district court may wield both aspects of its jurisdiction within the  
19 same case, *see id.*, the two types of jurisdiction function distinctly. In its appellate  
20 capacity, the district court reviews a decision that was made by an agency, and may

1 only consider the record created in the agency, and the parties may be required to  
2 exhaust the remedies available in the agency before turning to the district court. *See*  
3 *id.* ¶¶ 13, 15-16 (explaining that appellate review is limited to the record below);  
4 *Summit Properties, Inc. v. Pub. Serv. Co. of N.M.*, 2005-NMCA-090, ¶ 21, 138 N.M.  
5 208, 118 P.3d 716 (addressing the exhaustion of administrative remedies). In  
6 contrast, when exercising original jurisdiction, the district court is “unconstrained  
7 by the statutory limits on appellate review” and is not limited by any record created  
8 during the agency proceedings. *Maso*, 2004-NMCA-025, ¶¶ 15-16. No exhaustion  
9 of remedies is required if the matter presents a question of law “that would have  
10 been futile to pursue through the . . . administrative appeals process.” *Smith*, 2007-  
11 NMSC-055, ¶ 27. Thus, when exercising appellate jurisdiction, the district court  
12 reviews what the agency has done, and when exercising original jurisdiction, the  
13 district court considers a claim in the first instance.

14 {8} Although the district court has appellate and original jurisdiction and this  
15 Court may review a decision of the district court acting in either capacity,<sup>1</sup> the New

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<sup>1</sup> This Court’s review of a district court’s determinations about agency decisions is also impacted by the type of jurisdiction that the district court exercised. On the one hand, after the district court conducts an appellate review of the agency’s decision, a party may seek discretionary relief in this Court by petition for writ of certiorari according to the procedures and timelines set forth in Rule 12-505 NMRA. *See Wakeland v. N.M. Dep’t of Workforce Sols.*, 2012-NMCA-021, ¶¶ 15, 18, 274 P.3d 766; *see also Smith*, 2007-NMSC-055, ¶¶ 22-23 (explaining the process to petition for certiorari under Rule 1-075). On the other hand, a party’s appeal to this Court from a final order arising from the exercise of original jurisdiction is a

1 Mexico Constitution states that this Court “shall have no original jurisdiction.” *See*  
2 N.M. Const. art. VI, § 29. This Court has only appellate jurisdiction—jurisdiction to  
3 review other proceedings—as well as jurisdiction “to issue all writs necessary or  
4 appropriate in aid of [our] appellate jurisdiction.” N.M. Const. art. VI, § 29. Despite  
5 the limitations on this Court’s jurisdiction, the constitutional question was certified  
6 to this Court without any decision having been made in the first instance by the  
7 Board or the district court, suggesting an invocation of original jurisdiction we  
8 simply do not have.

9 ¶ The Assessor reads the Board’s decision to decide the constitutional issue in  
10 the first instance, but we disagree. The Assessor maintains that in addition to  
11 deciding that the constitutional issue was “beyond its purview,” the Board also  
12 decided the constitutional issue by incorrectly interpreting *El Castillo* to create  
13 separate statutory and constitutional tax exemptions and evaluating the Hospital’s  
14 claim as only a statutory exemption. Both aspects of the Board’s decision avoid  
15 deciding whether the statutes themselves were constitutional—one by disclaiming  
16 jurisdiction and one by characterizing the claim as statutory. But neither decided the

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constitutional right (provided the appeal conforms to our procedural rules). *See Los Chavez Cmty. Ass’n v. Valencia Cnty.*, 2012-NMCA-044, ¶ 5, 277 P.3d 475 (“In general, the right to appeal is restricted to final judgments and decisions.” (internal quotation marks and citation omitted)); *Wakeland*, 2012-NMCA-021, ¶ 15; *Olguin v. State*, 1977-NMSC-034, ¶ 2, 90 N.M. 303, 563 P.2d 97 (holding that the “constitutional right to appeal was not abridged by the dismissal for failure to follow procedural rules”).

1 constitutional issue in the first instance. We therefore agree with the district court  
2 that the constitutional issue arose under its original jurisdiction.

3 {10} When, as in this case, the district court’s original jurisdiction is invoked in an  
4 administrative appeal, the fundamental jurisdictional principles we have described,  
5 together with the language of Rule 1-075(S) and Section 39-3-1.1(F), demonstrate  
6 that certification may not be made to this Court. *See El Castillo*, 2017-NMSC-026,  
7 ¶ 25 (“A statute must be interpreted and applied in harmony with constitutionally  
8 imposed limitations.”). Section 39-3-1.1(F) and Rule 1-075(S) permit the district  
9 court, under some circumstances, to certify” to this Court “a final decision” that a  
10 party has appealed to the district court, but that is “undecided by that court,”  
11 provided that the matter “involves an issue of substantial public interest that should  
12 be decided by the Court of Appeals.” The Board explicitly determined that the  
13 constitutional issue was outside its jurisdiction. In these circumstances, there was no  
14 Board decision on the constitutional issue that could have been “presented for review  
15 to the district court.” *See* Rule 1-075(S). As a result, there was no Board decision to  
16 “certify” to this Court.<sup>2</sup> *See* § 39-3-1.1(F) (permitting certification of “a final

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<sup>2</sup>Because we determine that the Board made no decision at all, we need not resolve the parties’ dispute about whether the Board’s decision was “final.” *See* § 39-3-1.1(H)(2) (describing a final decision as one that “as a practical matter resolves all issues arising from a dispute within the jurisdiction of the agency”). We also do not decide whether the Board correctly determined whether it had jurisdiction to decide the constitutional question, because the question was not presented by the parties to this appeal and, in any event, we lack jurisdiction to address it. *See Schuster v. N.M.*

1 decision” if the “appeal involves an issue of substantial public interest”); Rule 1-  
2 075(S) (addressing the certification of a “final decision” if the “matter” or “case  
3 involves an issue of substantial public interest”). Instead, there was only a claim for  
4 the district court to decide, in the exercise of its original jurisdiction, in the first  
5 instance. *See Maso*, 2004-NMCA-025, ¶ 2. We therefore hold that Rule 1-075(S)  
6 and Section 39-3-1.1(F) do not permit certification to this Court of issues that arise  
7 under the district court’s original jurisdiction. The district court must first exercise  
8 its original jurisdiction before this Court has authority to exercise its appellate  
9 jurisdiction.

## 10 CONCLUSION

11 {11} Having no jurisdiction, we dismiss the appeal and remand to the district court  
12 for determination of the constitutional issue. *See Thorton v. Gamble*, 1984-NMCA-  
13 093, ¶ 15, 101 N.M. 764, 688 P.2d 1268 (“If we do not have jurisdiction, we must  
14 dismiss.”).

15 {12} **IT IS SO ORDERED.**

16   
17 **KATHERINE A. WRAY, Judge**

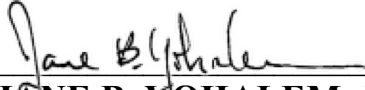
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*Tax'n & Revenue Dep't*, 2012-NMSC-025, ¶¶ 11-19, 283 P.3d 288 (concluding that  
in some circumstances, an agency has jurisdiction to determine constitutionality in  
order to fulfill its statutory mandate); *cf. El Castillo*, 2017-NMSC-026, ¶ 7 (noting  
that the parties in that case “agreed that the [b]oard did not have jurisdiction to  
address the constitutional issue with regard to the statute itself” (internal quotation  
marks omitted)).

1 **WE CONCUR:**

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3 \_\_\_\_\_

3 **ZACHARY A. IVES, Judge**

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5 \_\_\_\_\_

5 **JANE B. YOHALEM, Judge**