

CLERK OF THE COURT

NOT
KIRK T. KENNEDY, ESQ.
Nevada Bar No: 5032
815 S. Casino Center Blvd.
Las Vegas, NV 89101
(702) 385-5534
Attorney for Petitioner

Electronically Filed
Mar 09 2016 01:10 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

DISTRICT COURT
CLARK COUNTY, NEVADA

REGINALD BINGHAM,
Petitioner/Claimant,

Case No: A-15-714207-J
Dept. No: XXIII

vs.

STATE OF NEVADA,

Respondent,

PUBLIC EMPLOYEES RETIREMENT
SYSTEM,

Administrative Agency.

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN, that the Petitioner, REGINALD BINGHAM, by and through his undersigned counsel, KIRK T. KENNEDY, ESQ., files this notice of appeal to the Nevada Supreme Court from the order denying petitioner's petition for writ of mandamus, filed on February 3, 2016, and served by notice of entry of order on February 5, 2016. See Attached.

Dated this 4th day of March, 2016.

/s/Kirk T. Kennedy
KIRK T. KENNEDY, ESQ.
Nevada Bar No: 5032
815 S. Casino Center Blvd.
Las Vegas, NV 89101
(702) 385-5534
Attorney for Petitioner

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby affirm that on this 4th day of March, 2016, I mailed via first class U.S.

Mail a copy of the foregoing to:

W. Chris Wicker, Esq.
6100 Neil Road, Ste. 500
Reno, NV 89511

Chris Nielsen, Esq.
693 W. Nye Lane
Carson City, NV 89703

/s/Kirk T. Kennedy

Law Office of Kirk T. Kennedy, Esq.

AFFIRMATION REGARDING SOCIAL SECURITY NUMBERS

I hereby affirm that this document contains no social security numbers.

Dated this 4th day of March, 2016.

/s/Kirk T. Kennedy

KIRK T. KENNEDY, ESQ.
Nevada Bar No: 5032
815 S. Casino Center Blvd.
Las Vegas, NV 89101
(702) 385-5534
Attorney for Petitioner


CLERK OF THE COURT

1 **NOTC**

2 W. Chris Wicker, Esq.
3 Nevada State Bar No. 1037
4 Woodburn and Wedge
5 6100 Neil Road, Suite 500
6 Reno, NV 89511
7 Telephone: (775) 688-3000
8 Facsimile: (775) 688-3088

6 Chris Nielsen, Esq.
7 Nevada Bar No. 8206
8 693 W. Nye Lane
9 Carson City, NV 89703
10 Telephone: (775) 687-4200

11 *Attorneys for the Public Employees'*
12 *Retirement System*

13 **DISTRICT COURT**
14 **CLARK COUNTY, NEVADA**

15 **REGINALD BINGHAM,**

16 **Petitioner,**

17 **vs.**

18 **STATE OF NEVADA,**

19 **Respondent.**

20 **PUBLIC EMPLOYEES' RETIREMENT**
21 **SYSTEM,**

22 **Administrative Agency.**

Case No. A-15-714207-J

Dept. No. XXIII

NOTICE OF ENTRY OF ORDER

23 **TO:** Petitioner, REGINALD BINGHAM, and his counsel of record:

24 **PLEASE TAKE NOTICE** that on the 3rd day of February, 2016, the above-entitled
25 Court entered the Order Denying Petitioner's Petition for Writ of Mandamus, attached hereto
26 as Exhibit "1."

27 ///

28 ///

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 5th day of February, 2016.

WOODBURN AND WEDGE

By: /s/ W. Chris Wicker
W. Chris Wicker, Esq.
Nevada Bar No. 1037

Chris Nielsen, Esq.
Nevada Bar No. 8206

Attorneys for Public Employees'
Retirement System

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of Woodburn and Wedge, and I caused to be sent via
3 electronic mail, through the Court's filing system, a true and correct copy of the foregoing
4 NOTICE OF ENTRY OF ORDER, addressed as follows

5 Kirk Kennedy
6 815 South Casino Center Blvd.
7 Las Vegas, NV 89101

8 Chris Nielsen
9 693 W. Nye Lane
Carson City, NV 89703

10 DATED this 5th day of February, 2016.

11 By: /s/ Kelly N. Weaver
12 Kelly N. Weaver

EXHIBITS TO NOTICE OF ENTRY OF ORDER

Exhibit 1: Order Denying Petitioner's Petition for Writ of Mandamus, February 3, 2016.

EXHIBIT 1

EXHIBIT 1


CLERK OF THE COURT

1 W. Chris Wicker, Esq.
2 Nevada State Bar No. 1037
3 Woodburn and Wedge
4 6100 Neil Road, Suite 500
5 Reno, NV 89511
6 Telephone: (775) 688-3000
7 Facsimile: (775) 688-3088

8 Chris Nielsen, Esq.
9 Nevada Bar No. 8206
10 693 W. Nye Lane
11 Carson City, NV 89703
12 Telephone: (775) 687-4200

13 *Attorneys for the Public Employees'*
14 *Retirement System*

15 DISTRICT COURT
16 CLARK COUNTY, NEVADA

17 REGINALD BINGHAM,
18 Petitioner,

19 vs.

20 STATE OF NEVADA,
21 Respondent.

22 PUBLIC EMPLOYEES' RETIREMENT
23 SYSTEM,

24 Administrative Agency.

CASE NO. A-15-714207-J

DEPT. XXIII

**ORDER DENYING PETITIONER'S
PETITION FOR WRIT OF MANDAMUS**

25 Petitioner, REGINALD BINGHAM, filed a Petition for Judicial Review on February 20, 2015,
26 and filed a Stipulation and Order to Convert Proceedings from Petition for Judicial Review to a Writ of
27 Mandamus Proceeding on July 24, 2015. The Hearing on the Petition for Writ of Mandamus was held
28 on September 15, 2015. Appearing for the Petitioner was Kirk Kennedy, and appearing for
Administrative Agency, PUBLIC EMPLOYEES' RETIREMENT SYSTEM ("PERS"), was W. Chris
Wicker of Woodburn and Wedge.

Mr. Bingham was terminated from employment with the City of Las Vegas on July 16, 2010. He

1 started to collect retirement benefits on March 15, 2011. Mr. Bingham inquired about disability benefits
2 in November 2012, and PERS sent him a letter, dated November 26, 2012 stating he was not eligible
3 for disability retirement benefits due to being terminated from employment in July 2010. On May 20,
4 2014, Mr. Bingham's attorney sent a letter to PERS requesting that Mr. Bingham be considered eligible
5 to apply for disability benefits. PERS denied the request and Mr. Bingham appealed to the PERS Board.
6 The PERS Board denied the appeal on February 18, 2015. Mr. Bingham then timely filed for judicial
7 review.


8 After full briefing, at the hearing, the Court indicated he had reached a decision. The Court
9 found that it was two years before Petitioner took any action, or made a claim after the City of Las
10 Vegas terminated his employment. This Court found that pursuant to NRS 286.620, in order for the
11 Petitioner to be eligible to apply for disability retirement with PERS he had to be a member of PERS
12 through a participating public employer at the time of application for disability retirement. Petitioner
13 was no longer employed with a participating public employer as of July 16, 2010, when the City of Las
14 Vegas terminated his employment. Therefore, Petitioner was not eligible to apply for disability
15 retirement with PERS.


16 Therefore, IT IS HEREBY ORDERED that this Court orders that the Petition for Writ of
17 Mandamus is hereby DENIED.

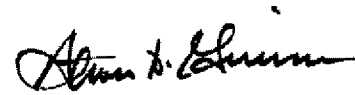
18
19 By: 
HONORABLE DISTRICT COURT JUDGE

JUDGE STEFANY A. MILEY

20 Approved as to form:

21 WOODBURN AND WEDGE
22 By: 
23 W. Chris Wicker
24 Nevada Bar No. 1037
25 Attorney for Administrative
Agency

26 By: 
27 Kirk T. Kennedy
28 Nevada Bar No. 7032
Attorney for Petitioner



CLERK OF THE COURT

CASEAPPSTM
KIRK T. KENNEDY, ESQ.
Nevada Bar No: 5032
815 S. Casino Center Blvd.
Las Vegas, NV 89101
(702) 385-5534
Attorney for Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

REGINALD BINGHAM,
Petitioner/Claimant,

vs.

STATE OF NEVADA,

Respondent,

PUBLIC EMPLOYEES RETIREMENT
SYSTEM,

Administrative Agency.

Case No: A-15-714207-J
Dept. No: XXIII

CASE APPEAL STATEMENT

COMES NOW, the Petitioner, REGINALD BINGHAM, by and through his undersigned counsel, KIRK T. KENNEDY, ESQ., who files this case appeal statement in accordance with NRAP 3(a)(1):

1. Name of appellant filing this case appeal statement: Reginald Bingham
2. Identify the judge issuing the decision, judgment or order appealed from:
Judge Stephanie Miley
3. Identify all parties to the proceedings in the district court:
 - a. Petitioner: Bingham, represented by Kirk T. Kennedy, Esq.
 - b. Respondents: State of Nevada and Public Employees Retirement System, represented by W. Chris Wicker, Esq., and Chris Nielson, Esq.
4. Identify all parties to this appeal:
 - a. Appellant Bingham represented by retained counsel Kirk T. Kennedy, Esq.
 - b. Appellee: State of Nevada and Public Employees Retirement System, represented by

W. Chris Wicker, Esq., and Chris Nielson, Esq.

5. Set forth the name, law firm, address and telephone number of all counsel on appeal and identify the party or parties they represent:

a. Appellant's Counsel: Kirk T. Kennedy, Esq., 815 S. Casino Center Blvd., Las Vegas, NV 89101, (702) 385-5534, who represents Bingham.

b. Appellee's Counsel: W. Chris Wicker, Esq., 6100 Neil Road, Ste. 500, Reno, NV 89511 (775) 688-3000, and Chris Nielsen, Esq., 693 W. Nye Lane, Carson City, NV 89703 (775) 687-4200, who represents State of Nevada and PERS.

6. All designated attorneys are licensed to practice in Nevada.

7. Indicate whether appellant was represented by appointed or retained counsel in the district court.

Appellant was represented by pro bono counsel in the district court.

8. Indicate whether the appellant is represented by appointed or retained counsel on this appeal.

Appellant is represented by pro bono counsel on this appeal.

9. Indicate whether the appellant was granted leave to proceed in forma pauperis and the date of entry of the district court order granting such leave.

None.

10. Indicate the date the proceedings commenced in the district court.

Petition filed February 20, 2015.

11. Brief Description of Action and Result Below: Bingham filed a petition for judicial review which was stipulated to be considered a petition for writ of mandamus to challenge the denial of certain PERS related disability benefits. At the hearing on the petition, the district court denied the petition. This appeal of that final order now follows.

12. Previous appeals: None.

13. Appeal involving child custody or visitation: No.

14. Possibility of Settlement: No.

Dated this 4th day of March, 2016.

/s/Kirk T. Kennedy
KIRK T. KENNEDY, ESQ.
Nevada Bar No: 5032
815 S. Casino Center Blvd.
Las Vegas, NV 89101
(702) 385-5534
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby affirm that on this 4th day of March, 2016, I mailed via first class U.S.

Mail a copy of the foregoing to:

W. Chris Wicker, Esq.
6100 Neil Road, Ste. 500
Reno, NV 89511

Chris Nielsen
693 W. Nye Lane
Carson City, NV 89703

/s/Kirk T. Kennedy
Law Office of Kirk T. Kennedy, Esq.

AFFIRMATION REGARDING SOCIAL SECURITY NUMBERS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I hereby affirm that this document contains no social security numbers.
Dated this 4th day of March, 2016.

/s/Kirk T.Kennedy
KIRK T. KENNEDY, ESQ.
Nevada Bar No: 5032
815 S. Casino Center Blvd.
Las Vegas, NV 89101
(702) 385-5534
Attorney for Petitioner

DEPARTMENT 23
CASE SUMMARY
CASE NO. A-15-714207-J

Reginald Bingham, Petitioner(s)
vs.
Nevada State of, Respondent(s)

§
§
§
§
§

Location: **Department 23**
Judicial Officer: **Miley, Stefany**
Filed on: **02/20/2015**
Cross-Reference Case Number: **A714207**

CASE INFORMATION

Case Type: **Other Judicial Review/Appeal**

Case Flags: **Appealed to Supreme Court**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-15-714207-J
Court	Department 23
Date Assigned	02/20/2015
Judicial Officer	Miley, Stefany

PARTY INFORMATION

Petitioner

Bingham, Reginald

Lead Attorneys

Kennedy, Kirk T
Retained
702-385-5534(W)

Respondent

Nevada State of


Higgins, Jennifer M.
Retained
775-684-1211(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX


02/20/2015

 Petition for Judicial Review
Filed by: Petitioner Bingham, Reginald
Petition for Judicial Review


02/20/2015

Case Opened


03/12/2015

 Errata
Filed By: Petitioner Bingham, Reginald
Errata to Petition for Judicial Review


03/20/2015

 Notice of Intent to Participate
Filed By: Respondent Nevada State of
Notice of Intent to Participate

04/13/2015

 Record on Appeal
Party: Respondent Nevada State of
Record on Appeal













04/13/2015

 Transmittal of Record on Appeal
Party: Respondent Nevada State of
Transmittal of Record on Appeal

04/13/2015

 Notice
Filed By: Respondent Nevada State of

DEPARTMENT 23
CASE SUMMARY
CASE NO. A-15-714207-J

	<i>Notice of Record on Appeal</i>	
06/09/2015	 Memorandum of Points and Authorities Filed By: Petitioner Bingham, Reginald <i>Petitioner's Memorandum in Support of Petition for Judicial Review</i>	
07/23/2015	 Answer Filed By: Respondent Nevada State of <i>Answer to Petition for Writ of Mandamus</i>	
07/24/2015	 Stipulation and Order Filed by: Petitioner Bingham, Reginald <i>Stipulation and Order to Convert Proceedings from Petition for Judicial Review to a Writ of AMandamus Proceeding</i>	
08/14/2015	 Notice of Hearing Filed By: Petitioner Bingham, Reginald <i>Notice of Hearing on Petitioner's Writ of Mandamus</i>	
08/25/2015	 Substitution of Attorney Filed by: Respondent Nevada State of <i>Substitution of Counsel</i>	
08/28/2015	 Notice of Rescheduling <i>Notice of Rescheduling of Hearing</i>	
09/01/2015	 Stipulation and Order Filed by: Administrator Public Employees Retirement System <i>Stipulation to Reschedule Hearing on Petitioner's Writ of Mandamus and Order</i>	
09/15/2015	 Petition for Writ of Mandamus (9:30 AM) (Judicial Officer: Bixler, James) <i>Notice of Hearing on Petitioner's Writ of Mandamus</i>	
02/03/2016	 Order Denying Filed By: Administrator Public Employees Retirement System <i>Order Denying Petitioner's Petition for Writ of Mandamus</i>	
02/05/2016	 Notice of Entry of Order Filed By: Administrator Public Employees Retirement System <i>Notice of Entry of Order</i>	
03/04/2016	 Notice of Appeal Filed By: Petitioner Bingham, Reginald <i>Notice of Appeal</i>	
03/04/2016	 Case Appeal Statement Filed By: Petitioner Bingham, Reginald <i>Case Appeal Statement</i>	

DATE

FINANCIAL INFORMATION

Petitioner Bingham, Reginald	
Total Charges	294.00
Total Payments and Credits	294.00
Balance Due as of 3/8/2016	0.00

DEPARTMENT 23
CASE SUMMARY
CASE NO. A-15-714207-J

DISTRICT COURT CIVIL COVER SHEET

A- 15- 714207- J

County, Nevada

XXIII

Case No.

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):

Reginald Bringham

Defendant(s) (name/address/phone):

State of Nevada
Public Employees Retirement
System

Attorney (name/address/phone):

Richard Kennedy
815 S. Casino Center
Clark NV 89101
385-5534

Attorney (name/address/phone):

none

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types****Real Property****Landlord/Tenant**

- ☐ Unlawful Detainer
☐ Other Landlord/Tenant

Title to Property

- ☐ Judicial Foreclosure
☐ Other Title to Property

Other Real Property

- ☐ Condemnation/Eminent Domain
☐ Other Real Property

Negligence

- ☐ Auto
☐ Premises Liability
☐ Other Negligence

Malpractice

- ☐ Medical/Dental
☐ Legal
☐ Accounting
☐ Other Malpractice

Torts**Other Torts**

- ☐ Product Liability
☐ Intentional Misconduct
☐ Employment Tort
☐ Insurance Tort
☐ Other Tort

Probate

(select case type and estate value)

- ☐ Summary Administration
☐ General Administration
☐ Special Administration
☐ Set Aside
☐ Trust/Conservatorship
☐ Other Probate

Estate Value

- ☐ Over \$200,000
☐ Between \$100,000 and \$200,000
☐ Under \$100,000 or Unknown
☐ Under \$2,500

Construction Defect & Contract**Construction Defect**

- ☐ Chapter 40
☐ Other Construction Defect

Contract Case

- ☐ Uniform Commercial Code
☐ Building and Construction
☐ Insurance Carrier
☐ Commercial Instrument
☐ Collection of Accounts
☐ Employment Contract
☐ Other Contract

Judicial Review/Appeal**Judicial Review**

- ☐ Foreclosure Mediation Case
☐ Petition to Seal Records
☐ Mental Competency

Nevada State Agency Appeal

- ☐ Department of Motor Vehicle
☐ Worker's Compensation
☐ Other Nevada State Agency

Appeal Other

- ☐ Appeal from Lower Court
☒ Other Judicial Review/Appeal

Civil Writ**Civil Writ**

- ☐ Writ of Habeas Corpus
☐ Writ of Mandamus
☐ Writ of Quo Warrant
☐ Writ of Prohibition
☐ Other Civil Writ

Other Civil Filing**Other Civil Filing**

- ☐ Compromise of Minor's Claim
☐ Foreign Judgment
☐ Other Civil Matters

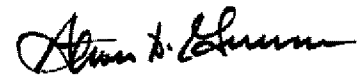
Business Court filings should be filed using the Business Court civil coversheet.

2/20/15

Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

1 W. Chris Wicker, Esq.
2 Nevada State Bar No. 1037
3 Woodburn and Wedge
4 6100 Neil Road, Suite 500
5 Reno, NV 89511
6 Telephone: (775) 688-3000
7 Facsimile: (775) 688-3088

8 Chris Nielsen, Esq.
9 Nevada Bar No. 8206
10 693 W. Nye Lane
11 Carson City, NV 89703
12 Telephone: (775) 687-4200

13 *Attorneys for the Public Employees'*
14 *Retirement System*

15 DISTRICT COURT
16 CLARK COUNTY, NEVADA

17 REGINALD BINGHAM,

18 Petitioner,

19 vs.

20 STATE OF NEVADA,

21 Respondent.

22 PUBLIC EMPLOYEES' RETIREMENT
23 SYSTEM,

24 Administrative Agency.

CASE NO. A-15-714207-J

DEPT. XXIII

**ORDER DENYING PETITIONER'S
PETITION FOR WRIT OF MANDAMUS**

25 Petitioner, REGINALD BINGHAM, filed a Petition for Judicial Review on February 20, 2015,
26 and filed a Stipulation and Order to Convert Proceedings from Petition for Judicial Review to a Writ of
27 Mandamus Proceeding on July 24, 2015. The Hearing on the Petition for Writ of Mandamus was held
28 on September 15, 2015. Appearing for the Petitioner was Kirk Kennedy, and appearing for
Administrative Agency, PUBLIC EMPLOYEES' RETIREMENT SYSTEM ("PERS"), was W. Chris
Wicker of Woodburn and Wedge.

Mr. Bingham was terminated from employment with the City of Las Vegas on July 16, 2010. He

1 started to collect retirement benefits on March 15, 2011. Mr. Bingham inquired about disability benefits
2 in November 2012, and PERS sent him a letter, dated November 26, 2012 stating he was not eligible
3 for disability retirement benefits due to being terminated from employment in July 2010. On May 20,
4 2014, Mr. Bingham's attorney sent a letter to PERS requesting that Mr. Bingham be considered eligible
5 to apply for disability benefits. PERS denied the request and Mr. Bingham appealed to the PERS Board.
6 The PERS Board denied the appeal on February 18, 2015. Mr. Bingham then timely filed for judicial
7 review.

8 After full briefing, at the hearing, the Court indicated he had reached a decision. The Court
9 found that it was two years before Petitioner took any action, or made a claim after the City of Las
10 Vegas terminated his employment. This Court found that pursuant to NRS 286.620, in order for the
11 Petitioner to be eligible to apply for disability retirement with PERS he had to be a member of PERS
12 through a participating public employer at the time of application for disability retirement. Petitioner
13 was no longer employed with a participating public employer as of July 16, 2010, when the City of Las
14 Vegas terminated his employment. Therefore, Petitioner was not eligible to apply for disability
15 retirement with PERS.

16 Therefore, IT IS HEREBY ORDERED that this Court orders that the Petition for Writ of
17 Mandamus is hereby DENIED.

18
19 By: 
HONORABLE DISTRICT COURT JUDGE

20 Approved as to form:

21 WOODBURN AND WEDGE

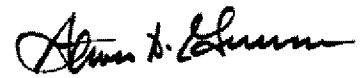
22 By: 

23 W. Chris Wicker
24 Nevada Bar No. 1037
25 Attorney for Administrative
Agency

26 By: 

27 Kirk T. Kennedy
28 Nevada Bar No: 5032
Attorney for Petitioner

JUDGE STEFANY A. MILEY



CLERK OF THE COURT

NOTC

W. Chris Wicker, Esq.
Nevada State Bar No. 1037
Woodburn and Wedge
6100 Neil Road, Suite 500
Reno, NV 89511
Telephone: (775) 688-3000
Facsimile: (775) 688-3088

Chris Nielsen, Esq.
Nevada Bar No. 8206
693 W. Nye Lane
Carson City, NV 89703
Telephone: (775) 687-4200

*Attorneys for the Public Employees'
Retirement System*

DISTRICT COURT

CLARK COUNTY, NEVADA

REGINALD BINGHAM,

Petitioner,

vs.

STATE OF NEVADA,

Respondent.

PUBLIC EMPLOYEES' RETIREMENT
SYSTEM,

Administrative Agency.

Case No. A-15-714207-J

Dept. No. XXIII

NOTICE OF ENTRY OF ORDER

TO: Petitioner, REGINALD BINGHAM, and his counsel of record:

PLEASE TAKE NOTICE that on the 3rd day of February, 2016, the above-entitled
Court entered the Order Denying Petitioner's Petition for Writ of Mandamus, attached hereto
as Exhibit "1."

///

///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

DATED this 5th day of February, 2016.

By: /s/ W. Chris Wicker
W. Chris Wicker, Esq.
Nevada Bar No. 1037

Attorneys for Public Employees'
Retirement System

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Kirk Kennedy
815 South Casino Center Blvd.
Las Vegas, NV 89101

Chris Nielsen
693 W. Nye Lane
Carson City, NV 89703

DATED this 5th day of February, 2016.

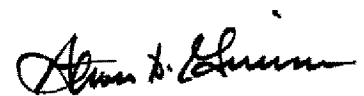
By: /s/ Kelly N. Weaver
Kelly N. Weaver

EXHIBITS TO NOTICE OF ENTRY OF ORDER

Exhibit 1: Order Denying Petitioner's Petition for Writ of Mandamus, February 3, 2016.

EXHIBIT 1

EXHIBIT 1



CLERK OF THE COURT

1 W. Chris Wicker, Esq.
2 Nevada State Bar No. 1037
3 Woodburn and Wedge
4 6100 Neil Road, Suite 500
5 Reno, NV 89511
6 Telephone: (775) 688-3000
7 Facsimile: (775) 688-3088

8 Chris Nielsen, Esq.
9 Nevada Bar No. 8206
10 693 W. Nye Lane
11 Carson City, NV 89703
12 Telephone: (775) 687-4200

13 *Attorneys for the Public Employees'*
14 *Retirement System*

15 DISTRICT COURT
16 CLARK COUNTY, NEVADA

17 REGINALD BINGHAM,

18 Petitioner,

19 vs.

20 STATE OF NEVADA,

21 Respondent.

22 PUBLIC EMPLOYEES' RETIREMENT
23 SYSTEM,

24 Administrative Agency.

CASE NO. A-15-714207-J

DEPT. XXIII

**ORDER DENYING PETITIONER'S
PETITION FOR WRIT OF MANDAMUS**

25 Petitioner, REGINALD BINGHAM, filed a Petition for Judicial Review on February 20, 2015,
26 and filed a Stipulation and Order to Convert Proceedings from Petition for Judicial Review to a Writ of
27 Mandamus Proceeding on July 24, 2015. The Hearing on the Petition for Writ of Mandamus was held
28 on September 15, 2015. Appearing for the Petitioner was Kirk Kennedy, and appearing for
Administrative Agency, PUBLIC EMPLOYEES' RETIREMENT SYSTEM ("PERS"), was W. Chris
Wicker of Woodburn and Wedge.

Mr. Bingham was terminated from employment with the City of Las Vegas on July 16, 2010. He

1 started to collect retirement benefits on March 15, 2011. Mr. Bingham inquired about disability benefits
2 in November 2012, and PERS sent him a letter, dated November 26, 2012 stating he was not eligible
3 for disability retirement benefits due to being terminated from employment in July 2010. On May 20,
4 2014, Mr. Bingham's attorney sent a letter to PERS requesting that Mr. Bingham be considered eligible
5 to apply for disability benefits. PERS denied the request and Mr. Bingham appealed to the PERS Board.
6 The PERS Board denied the appeal on February 18, 2015. Mr. Bingham then timely filed for judicial
7 review.

8 After full briefing, at the hearing, the Court indicated he had reached a decision. The Court
9 found that it was two years before Petitioner took any action, or made a claim after the City of Las
10 Vegas terminated his employment. This Court found that pursuant to NRS 286.620, in order for the
11 Petitioner to be eligible to apply for disability retirement with PERS he had to be a member of PERS
12 through a participating public employer at the time of application for disability retirement. Petitioner
13 was no longer employed with a participating public employer as of July 16, 2010, when the City of Las
14 Vegas terminated his employment. Therefore, Petitioner was not eligible to apply for disability
15 retirement with PERS.

16 Therefore, IT IS HEREBY ORDERED that this Court orders that the Petition for Writ of
17 Mandamus is hereby DENIED.

18
19 By: 
20 Honorable District Court Judge

21 Approved as to form:

22 WOODBURN AND WEDGE

23 By: 

24 W. Chris Wicker
25 Nevada Bar No. 1037
26 Attorney for Administrative
27 Agency

28 By: 

Kirk T. Kennedy
Nevada Bar No: 5032
Attorney for Petitioner

JUDGE STEFANY A. MILEY

DISTRICT COURT
CLARK COUNTY, NEVADA

Other Judicial Review/Appeal

COURT MINUTES

September 15, 2015

A-15-714207-J Reginald Bingham, Petitioner(s)
vs.
Nevada State of, Respondent(s)

September 15, 2015 09:30 AM Petition for Writ of Mandamus

HEARD BY: Bixler, James

COURTROOM: RJC Courtroom 12C

**COURT
CLERK:** Streuber, Katherine

COMMENTS: Notice of Hearing on Petitioner's Writ of
Mandamus

RECORDER: Garibay, Maria

REPORTER:

PARTIES Chris Nielsen Attorney

PRESENT: Kirk T Kennedy Attorney

Walter C. Wicker Attorney

JOURNAL ENTRIES

Mr. Kennedy advised Petitioner had been released from employment during litigation and noted he never received the letter. Argument by Mr. Kennedy regarding obligation and notice. Court pointed out it was two years before did anything, claiming he never received the letter. Mr. Kennedy argued the monetary difference between disability and regular retirement, noted Petitioner had met all statutory requirements and stated the amount of time passed did not matter as he did not receive proper notice. Court stated its findings and ORDERED, writ DENIED. Mr. Wicker to prepare the order and provide to opposing counsel for review prior to submitting to the Court for signature.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

KIRK T. KENNEDY, ESQ.
815 S. CASINO CENTER BLVD.
LAS VEGAS, NV 89101

DATE: March 8, 2016
CASE: A714207

RE CASE: REGINALD BINGHAM vs. STATE OF NEVADA

NOTICE OF APPEAL FILED: March 4, 2016

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:

- ☒ **\$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)****
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ **\$24 – District Court Filing Fee (Make Check Payable to the District Court)****
- ☒ **\$500 – Cost Bond on Appeal (Make Check Payable to the District Court)****
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ **Case Appeal Statement**
 - NRAP 3 (a)(1), Form 2
- ☐ **Order**
- ☐ **Notice of Entry of Order**

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER DENYING PETITIONER'S PETITION FOR WRIT OF MANDAMUS; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

REGINALD BINGHAM,

Petitioner(s),

vs.

STATE OF NEVADA,

Respondent(s),

PUBLIC EMPLOYEES RETIREMENT
SYSTEM,

Administrative Agency,

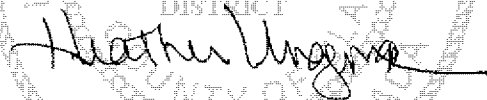
Case No: A714207

Dept No: XXIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 8 day of March 2016.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk