

CLERK OF THE COURT

1. SAO
2. KIRK T. KENNEDY, ESQ.
3. Nevada Bar No: 5032
4. 815 S. Casino Center Blvd.
5. Las Vegas, NV 89101
6. (702) 385-5534
7. Attorney for Petitioner

DISTRICT COURT
CLARK COUNTY, NEVADA

8. REGINALD BINGHAM,
9. Petitioner/Claimant,

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

10. vs.

11. STATE OF NEVADA,
12. Respondent,

13. PUBLIC EMPLOYEES RETIREMENT
14. SYSTEM,
15. Administrative Agency.

16. **STIPULATION AND ORDER TO CONVERT PROCEEDINGS FROM**
17. **PETITION FOR JUDICIAL REVIEW TO A WRIT OF MANDAMUS**
18. **PROCEEDING**

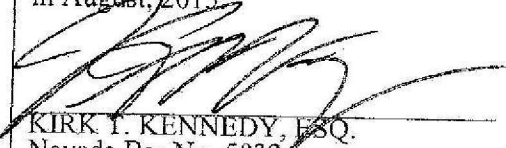
19. IT IS HEREBY STIPULATED AND AGREED, by and between, the Petitioner,
20. REGINALD BINGHAM, by and through his undersigned counsel, KIRK T. KENNEDY,
21. ESQ., and the Respondents, STATE OF NEVADA and PUBLIC EMPLOYEES
22. RETIREMENT SYSTEM, by and through their undersigned counsel, JENNIFER M.
23. CHISEL, Deputy Attorney General, and the firm of Woodburn and Wedge, that the
24. current petition for judicial review proceeding filed by Petitioner under NRS 233B is
25. incorrectly filed and that the proper proceeding to address the Petitioner's issues is a writ
26. of mandamus proceeding.

27. The parties stipulate to convert the existing proceedings under NRS 233B to a
28. mandamus proceeding under NRS 34.150 et seq.


1 Furthermore, the Petitioner's filed Memorandum in Support of Petition for
2 Judicial Review is agreed to constitute his memorandum in support of this converted writ
3 of mandamus and that the Petitioner is not required to re-file a further writ or
4 memorandum in support of his writ of mandamus.

5 Additionally, the parties stipulate that the Respondent shall have until July 23,
6 2015, to file its responsive pleading to the Petitioner's filed Memorandum. The Petitioner
7 shall have until August 6, 2015, to file his reply, if any.

8 The parties request that a hearing be scheduled on the Court's available calendar
9 in August, 2015.

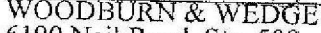
10 
11 KIRK T. KENNEDY, ESQ.
12 Nevada Bar No: 5032
13 815 S. Casino Center Blvd.
14 Las Vegas, NV 89101
15 (702) 385-5534
16 Attorney for Petitioner

17 Dated: 7/14/15

18 
19 JENNIFER M. CHISEL
20 Deputy Attorney General
21 100 N. Carson St.
22 Carson City, NV 89701
23 (775) 684-1211
24 Attorney for Respondent

25 Dated: 7/9/15

26 *All page 3*

27 
28 WOODBURN & WEDGE
29 6100 Neil Road, Ste. 500
30 Reno, NV 89511
31 (775) 688-3000
32 Attorney for Respondent

33 Dated: _____

34 **ORDER**

35 IT IS SO ORDERED.

36 Dated this 15 day of July, 2015.

37 
38 DISTRICT COURT JUDGE

39 JUDGE STEFANY A. MILEY

1 Furthermore, the Petitioner's filed Memorandum in Support of Petition for
2 Judicial Review is agreed to constitute his memorandum in support of this converted writ
3 of mandamus and that the Petitioner is not required to re-file a further writ or
4 memorandum in support of his writ of mandamus.

5 Additionally, the parties stipulate that the Respondent shall have until July 23,
6 2015, to file its responsive pleading to the Petitioner's filed Memorandum. The Petitioner
7 shall have until August 6, 2015, to file his reply, if any.

8 The parties request that a hearing be scheduled on the Court's available calendar
9 in August, 2015.

10 *See page 2*
11 KIRK T. KENNEDY, ESQ.
12 Nevada Bar No: 5032
13 815 S. Casino Center Blvd.
14 Las Vegas, NV 89101
15 (702) 385-5534
16 Attorney for Petitioner

17 Dated: _____

18 *See page 2*
19 JENNIFER M. CHISEL
20 Deputy Attorney General
21 100 N. Carson St.
22 Carson City, NV 89701
23 (775) 684-1211
24 Attorney for Respondent

25 Dated: _____

26 *W. Woodburn & Wedge*
27 WOODBURN & WEDGE
28 6100 Neil Road, Ste. 500
Reno, NV 89511
(775) 688-3000
Attorney for Respondent

Dated: 7/9/15

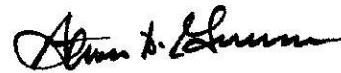
ORDER

IT IS SO ORDERED.

Dated this 15 day of July, 2015.

Stefany A. Miley
DISTRICT COURT JUDGE

JUDGE STEFANY A. MILEY



CLERK OF THE COURT

1 **PET**
2 KIRK T. KENNEDY, ESQ.
3 Nevada Bar No: 5032
4 815 S. Casino Center Blvd.
5 Las Vegas, NV 89101
6 (702) 385-5534
7 Attorney for Claimant/Petitioner
8 REGINALD BINGHAM

9
10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 REGINALD BINGHAM,
13
14 Petitioner/Claimant,

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

15 vs.

16 STATE OF NEVADA,

17 Respondent.

18 PUBLIC EMPLOYEES RETIREMENT
19 SYSTEM,
20 Administrative Agency.

21 **PETITION FOR JUDICIAL REVIEW**

22 COMES NOW, the Petitioner/Claimant, REGINALD BINGHAM, by and
23 through his undersigned counsel, KIRK T. KENNEDY, ESQ., who hereby files this
24 petition for judicial review, pursuant to N.R.S. 233B.130 through 233B.150, for review
25 of the administrative agency decision entered on or about January 21, 2015, by the
26 Public Employees Retirement System related to Petitioner's claims of entitlement to
27 disability based PERS benefits.
28

In support hereof, Petitioner would rely on the following points and authorities.

DATED this 19th day of February, 2015.

/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

POINTS AND AUTHORITIES

I. Procedural Background:

On or about January 21, 2015, the Public Employees Retirement System entered its order which denied Petitioner's request for consideration to allow him disability based retirement benefits. Pursuant to N.R.S. 233B.130, Petitioner asserts that he is an aggrieved party who is entitled to have this final, administrative agency determination reviewed by the district court as a petition for judicial review. Petitioner seeks this review because the administrative decision was clearly erroneous and/or arbitrary and capricious and/or an abuse of discretion and/or in violation of statutory provisions. N.R.S. 233B.135(3)(a)(d)(e) and (f).

The issues to be reviewed through this process include, but may not be limited to, (1) whether the agency's determination was arbitrary and capricious; (2) whether the decision violated the Petitioners' rights in its determination and order and (3) whether PERS acted in accordance with state law.

In light of the requirements of N.R.S. 233B.131 for the transmittal of the entire agency record within 30 days after service of this petition upon the agency, Petitioner would request that this Court set a final hearing date for this matter which will allow sufficient time for the Petitioner to review the record and submit the appropriate

memorandum of points and authorities per N.R.S. 233B.133(1).

DATED this 19th day of February, 2015.

/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 20th day of February, 2015, I mailed a copy of the foregoing Petition for Judicial Review to the Respondents at the addresses below:

Public Employees Retirement System
693 W. Nye Lane
Carson City, NV 89703

Office of the Attorney General
100 N. Carson St.
Carson City, NV 89701

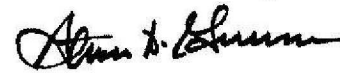
/s/Kirk T. Kennedy
Employee of Kirk T. Kennedy, Esq.

AFFIRMATION REGARDING SOCIAL SECURITY NUMBERS

I hereby affirm that the foregoing document contains no social security numbers in compliance with Nevada law.

DATED this 19th day of February, 2015.

/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

ERRTA
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,

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

vs.

STATE OF NEVADA,

Respondent,

PUBLIC EMPLOYEES RETIREMENT
SYSTEM,

Administrative Agency.

ERRATA TO PETITION FOR JUDICIAL REVIEW

COMES NOW, the Petitioner, REGINALD BINGHAM, by and through his undersigned counsel, KIRK T. KENNEDY, ESQ., who hereby files this errata to his filed Petition for Judicial Review to include the following:

1. Copy of Administrative Decision 2015-02, attached.

Dated this 12th day of March, 2015.

/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 12th day of March, 2015, I mailed via first class U.S.

Mail a copy of the foregoing to:

Public Employees Retirement System
693 W. Nye Lane
Carson City, NV 89703

Jennifer M. Chisel
Deputy Attorney General
Office of the Attorney General
100 N. Carson St.
Carson City, NV 89701

/s/Kirk T. Kennedy
Employee of Kirk T. Kennedy, Esq.

AFFIRMATION REGARDING SOCIAL SECURITY NUMBERS

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

Dated this 12th day of March, 2015.

/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 **BEFORE THE BOARD OF TRUSTEES OF THE**
2 **PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF Nevada**

3
4 In the Matter of:

5 REGINALD BINGHAM,

6 Petitioner.

ADMINISTRATIVE DECISION 2015-02

Findings of Fact, Conclusions of
Law and Decision

7
8 This matter came before the Retirement Board for hearing at a regularly scheduled and
9 duly noticed meeting conducted on January 21, 2015. Attorney Kirk T. Kennedy personally
10 appeared on Reginald Bingham's behalf. Mr. Kennedy presented testimony, evidence and
11 argument. PERS Staff presented testimony, evidence and argument on the matter. After
12 hearing all evidence and argument, and being fully advised on the matter, the Public
13 Employees' Retirement System (hereafter "PERS" or "System") Retirement Board issued the
14 following findings of fact, conclusions of law and decision.

15 **FINDINGS OF FACT**

16 Mr. Bingham requested that the Retirement Board consider him eligible to apply for
17 disability retirement benefits.

18 Mr. Bingham was employed with the City of Las Vegas ("Employer") on June 18, 1993
19 and was terminated from his position on July 16, 2010. The Employer sent Mr. Bingham a
20 letter dated July 1, 2010 (the "Letter") to inform him of his termination and that if he wanted to
21 pursue disability retirement through PERS, he must do so prior to his termination date of July
22 16, 2010. Mr. Bingham claims that he never received the Letter.

23 On March 15, 2011, Mr. Bingham applied for service retirement and has received a
24 monthly benefit since that time. In November 2012, Mr. Bingham inquired about disability
25 retirement benefits in which PERS informed him that he was not eligible to apply for disability
26 benefits pursuant to NRS 286.620. Mr. Bingham had been terminated from his employment
27 and had not submitted a disability application to PERS prior to that termination.

28 ///

1 Mr. Bingham's attorney sent a letter dated July 22, 2014 requesting a hearing or other
2 review by the Board regarding the matter. On August 27, 2014, a letter from the Nevada
3 Attorney General's Office was sent to Mr. Bingham's attorney that provided that the Board
4 does not generally hear matters where there is a controlling statute. Pursuant to a letter dated
5 September 29, 2014, Mr. Bingham's attorney expressed that Mr. Bingham still desired that the
6 matter be heard by the Board.

7 This matter was first presented to the Retirement Board at the November 2014 Board
8 meeting as a staff denial. Pursuant to the request of Board Member Audrey Noriega, an
9 appeal of the matter was brought before the Retirement Board at the January 21, 2015
10 meeting.

11 Mr. Kennedy argued that the Retirement Board should allow Mr. Bingham to be
12 considered for disability retirement as Mr. Bingham was not properly informed of the disability
13 process as the Letter was not timely received by Mr. Bingham or Mr. Kennedy. Mr. Kennedy
14 argued that the Board has equitable power to grant Mr. Bingham the right to apply for
15 disability retirement benefits based on the extenuating circumstances.

16 **ANALYSIS and CONCLUSIONS OF LAW**

17 PERS staff does not have the authority to consider a retiree or a terminated employee
18 for disability retirement as established by the Retirement Act. However, NRS 286.190(3)
19 provides that the Board may:

20 Adjust the service or correct the records, allowance or benefits of
21 any member, retired employee or beneficiary after an error or
22 inequity has been determined, and require repayment of any
23 money determined to have been paid by the System in error, if the
24 money was paid within 6 years before demand for its repayment.

25 Additionally, NRS 286.190(4) provides as follows:

26 As used in this section, "error or inequity" means the existence of
27 extenuating circumstances, including, but not limited to, a
28 member's reasonable and detrimental reliance on representations
made by the System or by the public employer pursuant to NRS
286.288 which prove to be erroneous, or the mental incapacity of
the member.

NRS 286.190(4).

1 In this case, Mr. Bingham did not rely on any erroneous information provided by PERS.
2 Mr. Bingham did not apply for disability retirement as provided by the Retirement Act.
3 NRS 286.620 sets forth the criteria for applying for disability retirement benefits. One of the
4 statutory requirements is that a member be "in the employ of a participating public employer at
5 the time of application for disability retirement." NRS 286.620(1)(b). Mr. Bingham had been
6 terminated from his employment and had not submitted a disability application to PERS prior
7 to that termination. Mr. Bingham not receiving the Letter from the Employer regarding
8 applying for disability does not eliminate the statutory requirements as provided by the
9 Retirement Act.

10 DECISION

11 Reginald Bingham's appeal to the Retirement Board is hereby DENIED to be
12 considered eligible to apply for disability retirement benefits.

13 IT IS SO ORDERED.

14 Dated this 18 day of February, 2015.

15
16 PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF
NEVADA, RETIREMENT BOARD

17
18
19 By: 

20 MARK R. VINCENT
Chairman
21
22
23
24
25
26
27
28

Attorney General's Office
180 N. Carson Street
Carson City, Nevada 89701-4717

CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Public Employees' Retirement System of Nevada and on this 26th day of February, 2015, I served a true and correct copy of the foregoing, **ADMINISTRATIVE DECISION, 2015-02** via U.S. Mail as follows:

Kirk T. Kennedy, Esq.
Attorney for Reginald Bingham
815 S. Casino Center Blvd.
Las Vegas, NV 89101

Pamela Young
An Employee of the
Public Employees' Retirement System of Nevada


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 ///

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

DATED this 5th day of February, 2016.

- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

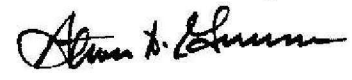
EXHIBITS TO NOTICE OF ENTRY OF ORDER

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

EXHIBIT 1

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

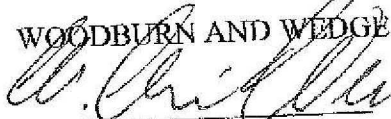
1 started to collect retirement benefits on March 15, 2011. Mr. Bingham inquired about disability benefits
2 in November 2012, and PERS sent him a letter, dated November 26, 2012 stating he was not eligible
3 for disability retirement benefits due to being terminated from employment in July 2010. On 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 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

JUDGE STEFANY A. MILEY

1 KIRK T. KENNEDY, ESQ.
2 Nevada Bar No: 5032
3 815 S. Casino Center Blvd.
4 Las Vegas, NV 89101
(702) 385-5534
Attorney for Appellant

Electronically Filed
Mar 22 2016 10:20 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

5 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

6 REGINALD BINGHAM,

Case No: 69927

7 Appellant,

8 vs.

9 PUBLIC EMPLOYEES RETIREMENT
10 SYSTEM,

11 Respondent

12 **DOCKETING STATEMENT**

13 1. Judicial District: Eighth Department: 23 County: Clark

14 Judge: Stephanie Miley

15 District Court Docket No: A-15-714207-J

16 2. Attorney filing this docket statement:

17 Kirk T. Kennedy, Esq.

18 815 S. Casino Center Blvd.

19 Las Vegas, NV 89101

20 (702) 385-5534

21 Attorney for Appellant Reginald Bingham

22 3. Attorney representing respondent:

23 W. Chris Wicker, Esq., Woodburn Wedge, 6100 Neil Road, Ste. 500, Reno, Nevada

24 89511, (775) 688-3000;

25 Chris Nielsen, Esq., 693 W. Nye Lane, Carson City, NV 89703, (775) 687-4200,

26 All attorneys representing Respondent PERS and State of Nevada.

4. Nature of disposition below:

<input type="checkbox"/> Judgment after bench trial	<input type="checkbox"/> Grant/Denial of NRCP 60(b) relief
<input type="checkbox"/> Judgment after jury verdict	<input type="checkbox"/> Grant/Denial of injunction
<input type="checkbox"/> Summary Judgment	<input type="checkbox"/> Grant/Denial of declaratory relief
<input type="checkbox"/> Default Judgment	<input type="checkbox"/> Review of agency determination
<input type="checkbox"/> Dismissal	<input type="checkbox"/> Divorce decree
	<input checked="" type="checkbox"/> - other disposition: Order denying Writ of Mandamus

5. This appeal does not raise any issues regarding child custody, venue, adoption, termination of parental rights, the grant/denial of an injunction or TRO, or juvenile matters.

6. Pending and prior proceedings in this court. None.

7. Pending and prior proceedings in other courts: None.

8. Nature of this action: Bingham filed petition for judicial review of a PERS decision denying him disability based benefits. The Petition was converted to a Writ of Mandamus proceeding by stipulation of the parties. At the hearing on the Writ on September 15, 2015, the district court denied the Writ and this appeal now follows.

9. Issues on appeal:

a. Whether the district court abused its discretion in denying the writ of mandamus.

10. Pending proceedings in this court raising the same or similar issues: None.

11. Constitutional issues: Not Applicable.

12. Other issues: None.

13. Trial: Not applicable.

14. Judicial disqualification: Not applicable.

TIMELINESS OF NOTICE OF APPEAL

15. Date of entry of written judgment or order appealed from: February 3, 2016. A copy is attached.

16. Date written notice of entry of judgment or order served: February 5, 2016. A copy is attached with proof of service by mail.

17. If the time for filing the notice of appeal was tolled by a post-judgment motion? No.

18. Date notice of appeal was filed: March 4, 2016.

19. Specify statute or rule governing the time limit for filing the notice of appeal: NRAP Rule 4(a)(1).

SUBSTANTIVE APPEALABILITY

20. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from: NRAP 3A(b)(1).

Explain how the authority provides a basis for appeal from the judgment or order:

This is an appeal from a final order of the district court denying a Writ of Mandamus.

Direct appellate review is permissible.

21. List of all parties involved in the action in the district court:

Petitioner: Reginald Bingham

Respondents: State of Nevada and the Public Employees Retirement System

(a) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal: N/A

22. Give a brief description of each party's claims:

Bingham claimed to the PERS Board that he should be entitled to disability based benefits following his July, 2010, termination from employment with the City of Las Vegas. The PERS Board ruled against him and Bingham filed a petition for judicial review in the district court of that decision. Bingham alleged that the PERS Board decision was in violation of Nevada law and arbitrary/capricious. The petition was then

converted to a writ of mandamus action. The district court denied the Writ at a hearing on September 15, 2015.

23. Did the judgment or order appealed from adjudicate all the claims alleged below and the rights and liabilities of all the parties to the action below: Yes.

24. If you answered No to the immediately previous question, complete the following:

(a) Specify the claims remaining pending below.

(b) Specify the parties remaining below.

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b):

Yes: ____ No: ____

(d) Did the district court make an express determination, pursuant to NRCP 54(b) that there is no just reason for delay and an express direction for the entry of judgment:

Yes: ____ No: ____

25. If you answered No to any part of question 24, explain the basis for seeking appellate review:

26. Attach file stamped copies of the following documents:

-latest filed complaint, counterclaims, cross-claims or third party claims

-any tolling motions and orders

-orders of NRCP 41(a) dismissals formally resolving each claim asserted in action below even if not an issue on appeal

-any other order challenged on appeal

-notices of entry of each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Name of Appellant: Reginald Bingham

Name of counsel of record: Kirk T. Kennedy, Esq.

Date: 3/22/16

Signature of counsel of record

State and County: Clark County, Nevada

CERTIFICATE OF SERVICE

I hereby affirm that on this 22nd day of March, 2016, I mailed a copy via first class U.S. Mail of the foregoing docketing statement to the Respondent at the addresses below:

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

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

Law Office of Kirk T. Kennedy, Esq.