

Electronically Filed  
Aug 11 2021 01:28 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

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

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

REGINALD BINGHAM,  
Petitioner/Claimant,

Case No: A-21-832163-W  
Dept. No: 29

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., does hereby appeal to the Nevada Supreme Court from the district court's decision and order granting the Respondent's motion to dismiss the above-entitled matter, filed by notice of entry of order on July 7, 2021. See Notice and Order, attached.

Dated this 6<sup>th</sup> day of August, 2021.

/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

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**CERTIFICATE OF SERVICE**

I hereby affirm that on this 6<sup>th</sup> day of August, 2021, I mailed via first class U.S. Mail and served via electronic service a copy of the foregoing to Respondents at the address below:


Ian Carr  
Deputy Attorney General  
100 N. Carson St.  
Carson City, NV 89701-4717

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

**AFFIRMATION REGARDING SOCIAL SECURITY NUMBERS**

I hereby affirm that this document contains no social security numbers.  
Dated this 6<sup>th</sup> day of August, 2021.

/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 **NEOJ**  
2 **AARON D. FORD**  
3 Attorney General  
4 **IAN CARR**, Bar No. 13840  
5 Deputy Attorney General  
6 State of Nevada  
7 100 N. Carson Street  
8 Carson City, Nevada 89701-4717  
9 Tel: (775) 684-1250  
10 Email: ICarr@ag.nv.gov

11 *Attorneys for Respondents, the*  
12 *State of Nevada and the Public*  
13 *Employees' Retirement System*  
14 *of Nevada*

15 **DISTRICT COURT**  
16 **CLARK COUNTY, NEVADA**

17 **REGINALD BINGHAM,**

18 Petitioner,

19 vs.

20 **STATE OF NEVADA, PUBLIC**  
21 **EMPLOYEES' RETIREMENT SYSTEM**  
22 **OF THE STATE OF NEVADA,**

23 Respondents.

Case No.: A-21-832163-W

Dept. No.: XXIX

24 **NOTICE OF ENTRY OF ORDER**

25 PLEASE TAKE NOTICE that an Order Granting Respondents' Motion to Dismiss was  
26 signed in the above-entitled matter on the 25th day of June, 2021.

27 A copy of said Order is attached hereto as Exhibit 1.

28 DATED this 7th day of July, 2021.

AARON D. FORD  
Attorney General

By: /s/ Ian Carr  
IAN CARR  
Deputy Attorney General  
State of Nevada  
(775) 684-1250  
ICarr@ag.nv.gov  
*Attorneys for Respondents*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of the State of Nevada, Office of the Attorney  
3 General, and that on this 7th day of July, 2021, I filed the foregoing **NOTICE OF ENTRY**  
4 **OF ORDER**, via this Court's electronic filing system. Parties who are registered with this  
5 Court's electronic filing system will be served electronically.  
6  
7

8 /s/ Karen Easton

9 An employee of the Office of the  
10 Nevada Attorney General  
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**INDEX OF EXHIBITS**

EXHIBIT No.	EXHIBIT DESCRIPTION	NUMBER OF PAGES
1	Order Granting Respondents' Motion to Dismiss	4

# **EXHIBIT 1**

# **EXHIBIT 1**

1 **ORDM**  
2 **AARON D. FORD**  
3 Attorney General  
4 **IAN CARR, Bar No. 13840**  
5 Deputy Attorney General  
6 State of Nevada  
7 100 N. Carson Street  
8 Carson City, Nevada 89701-4717  
9 Tel: (775) 684-1250  
10 Email: ICarr@ag.nv.gov

11 *Attorneys for Respondents, the*  
12 *State of Nevada and the Public*  
13 *Employees' Retirement System*  
14 *of Nevada*

15 **DISTRICT COURT**  
16 **CLARK COUNTY, NEVADA**

17 **REGINALD BINGHAM,**

18 Petitioner,

19 vs.

20 **STATE OF NEVADA, PUBLIC**  
21 **EMPLOYEES' RETIREMENT SYSTEM**  
22 **OF THE STATE OF NEVADA,**

23 Respondents.

Case No.: A-21-832163-W

Dept. No.: XXIX

24 **ORDER GRANTING RESPONDENTS'**  
25 **MOTION TO DISMISS**

26 This matter comes before the Court pursuant to Respondents' Motion to Dismiss,  
27 which was filed on May 27, 2021. On June 8, 2021 Petitioner filed his Opposition to  
28 Respondents' Motion to Dismiss. On June 14, 2021, Respondents filed their Reply in  
Support of the Motion to Dismiss. The Court heard oral argument on the matter on the  
morning of June 22, 2021. After reviewing the relevant papers, the Court finds Petitioner  
Reginald Bingham's case to be wanting, at law. Accordingly, the Court finds and concludes  
as follows:

29 **A. This Case Is Barred by the Applicable Statute of Limitations**

30 Under NRS Chapter 286, a PERS member can only qualify for disability retirement  
31 if still employed by a PERS-eligible employer at the time of application. See NRS  
32 286.620(1)(b). Furthermore, a PERS member may only apply for reconsideration of a PERS  
33 Board's denial of a disability retirement application within 45 days, if the member discovers

1 evidence which was not known during the original hearing. *See* NRS 286.630(4).

2       The Court finds that Bingham's original hearing regarding his disability retirement  
3 application occurred on January 21, 2015. In February 2020, Bingham corresponded with  
4 PERS requesting a rehearing; in March 2020 and August 2020, Bingham and PERS  
5 exchanged correspondence regarding PERS' rejection of Bingham's request due to  
6 untimeliness. In January 2021, Bingham corresponded with the PERS Board with the  
7 same request, but the PERS Board did not respond. Bingham should have sought a  
8 rehearing within the 45-day timeframe prescribed by NRS 286.630(4), but did not, instead  
9 filing this writ petition seeking a rehearing on April 1, 2021, more than six years untimely.  
10 Therefore, the Court concludes that this case is time-barred pursuant to NRS 286.630(4),  
11 notwithstanding Bingham's allegations of a conflict of interest against the former PERS  
12 Board Chairman that presided over his original disability retirement application hearing.  
13 The Court finds that the former PERS Board Chairman's employment as City of Las Vegas  
14 CFO at the time was publicly known; Bingham should have raised the issue at the original  
15 hearing or during the 45-day reconsideration period as prescribed by NRS 286.630(4).

16       Therefore, this case is time-barred, and must be dismissed in its entirety, with  
17 prejudice.

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1 **B. Order**

2 Therefore, after reviewing all the papers relevant to Respondents' Motion to Dismiss  
3 and hearing the arguments of the parties, the Court hereby **GRANTS** Respondents' Motion  
4 to Dismiss and dismisses this case in its entirety, with prejudice.

5 **IT IS SO ORDERED.**

Dated this 25th day of June, 2021

6   
7  
8 HONORABLE DAVID JONES  
DISTRICT COURT JUDGE  
9 638 BFA 530A 9EE8  
David M Jones  
District Court Judge

10  
11  
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15  
16 Submitted by:

17 AARON D. FORD

18 Attorney General

19 /s/ Ian Carr

20 IAN CARR (Bar No. 13840)

21 Deputy Attorney General

22 State of Nevada

23 100 N. Carson Street

24 Carson City, Nevada 89701-4717

25 Tel: (775) 684-1250

26 Email: ICarr@ag.nv.gov

27  
28 Approved as to form and content by:

29 /s/ Kirk Kennedy

30 KIRK T. KENNEDY, ESQ. (Bar No. 5032)

31 Law Office of Kirk T. Kennedy

32 815 S. Casino Center Blvd.

33 Las Vegas, Nevada 89101

34 Tel: (702) 385-5534

35 Email: ktkennedylaw@gmail.com

1 CSERV

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Reginald Bingham, Plaintiff(s)

CASE NO: A-21-832163-W

7 vs.

DEPT. NO. Department 29

8 State of Nevada, Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order of Dismissal was served via the court's electronic eFile system to  
13 all recipients registered for e-Service on the above entitled case as listed below:

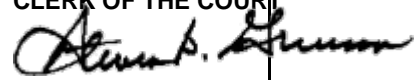
14 Service Date: 6/25/2021

15 Ian Carr

icarr@ag.nv.gov

16 Kirk Kennedy

ktkennedylaw@gmail.com



ASTA  
KIRK T. KENNEDY, ESQ.  
Nevada Bar No: 5032  
815 S. Casino Center Blvd.  
Las Vegas, NV 89101  
(702) 385-5534  
email: ktkennedylaw@gmail.com  
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-21-832163-W  
Dept. No: 29

**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 David Jones
3. Identify all parties to this appeal:
  - a. Appellant Bingham represented by retained counsel Kirk T. Kennedy, Esq., 815 S. Casino Center Blvd., Las Vegas, NV 89101, (702) 385-5534.
  - b. Appellee: State of Nevada and PERS represented by Ian Carr, Deputy Attorney General, Office of the Attorney General, 100 N. Carson St., Carson City, NV 89701, (775) 684-1250.

4. All designated attorneys in this matter are licensed to practice in Nevada.

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

Appellant was represented by retained counsel in the district court.

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

Appellant is represented by retained counsel for this appeal.

7. 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.

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

Petition for Writ of Mandamus filed April 1, 2021.

9. Brief Description of Action and Result Below: Appellant filed a petition for writ of mandamus regarding the Nevada State agency PERS' decision which denied him a hearing before the agency. The Respondent filed a motion to dismiss the petition, which was granted by the district court. This final decision is the basis for the appeal.

10. Previous appeals: None.

11. Appeal involving child custody or visitation

12. Possibility of Settlement: Yes

Dated this 6<sup>th</sup> day of August, 2021.

/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

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**CERTIFICATE OF SERVICE**

I hereby affirm that on this 6<sup>th</sup> day of August, 2021, I mailed via first class U.S. Mail and served via electronic service a copy of the foregoing to Respondents at the address below:

Ian Carr  
Deputy Attorney General  
100 N. Carson St.  
Carson City, NV 89701-4717

/s/Kirk T. Kennedy  
\_\_\_\_\_  
Law Office of Kirk T. Kennedy

**AFFIRMATION REGARDING SOCIAL SECURITY NUMBERS**

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

Dated this 6<sup>th</sup> day of August, 2021.

/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

# CASE SUMMARY

## CASE NO. A-21-832163-W

**Reginald Bingham, Plaintiff(s)**  
**vs.**  
**State of Nevada, Defendant(s)**

§  
§  
§  
§  
§

Location: **Department 29**  
 Judicial Officer: **Jones, David M**  
 Filed on: **04/01/2021**  
 Cross-Reference Case Number: **A832163**

### CASE INFORMATION

#### Statistical Closures

06/25/2021 Motion to Dismiss by the Defendant(s)

Case Type: **Writ of Mandamus**

Case Status: **06/25/2021 Dismissed**

### DATE

### CASE ASSIGNMENT

#### Current Case Assignment

Case Number A-21-832163-W  
 Court Department 29  
 Date Assigned 04/01/2021  
 Judicial Officer Jones, David M

### PARTY INFORMATION

**Plaintiff**

**Bingham, Reginald**

*Lead Attorneys*

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

**Defendant**

**State of Nevada**

**Carr, Ian**  
*Retained*  
 775-684-1259(W)


### DATE

### EVENTS & ORDERS OF THE COURT


### INDEX

#### EVENTS


04/01/2021

 Petition for Writ of Mandamus  
 Filed by: Plaintiff Bingham, Reginald  
*[1] Petition for Writ of Mandamus*


04/01/2021

 Initial Appearance Fee Disclosure  
 Filed By: Plaintiff Bingham, Reginald  
*[2] Initial Appearance Fee Disclosure*


04/15/2021

 Summons Electronically Issued - Service Pending  
 Party: Plaintiff Bingham, Reginald  
*[3] Summons*


04/15/2021

 Summons Electronically Issued - Service Pending  
 Party: Plaintiff Bingham, Reginald  
*[4] Summons*

05/27/2021

 Motion to Dismiss  
 Filed By: Defendant State of Nevada; Agency Public Employees Retirement System  
*[5] Respondents' Motion to Dismiss*

05/28/2021

 Clerk's Notice of Hearing

**CASE SUMMARY****CASE NO. A-21-832163-W***[6] Clerk's Notice of Hearing*

06/08/2021

**Opposition**

Filed By: Plaintiff Bingham, Reginald

*[7] Petitioner's Opposition to Respondents' Motion to Dismiss*

06/14/2021

**Reply**

Filed by: Agency Public Employees Retirement System

*[8] Respondents' Reply in Support of Motion to Dismiss*

06/25/2021

**Order of Dismissal***[9] Order Granting Respondents' Motion to Dismiss*

07/07/2021

**Notice of Entry of Order**

Filed By: Agency Public Employees Retirement System

*[10] Notice of Entry of Order*

08/06/2021

**Notice of Appeal**

Filed By: Plaintiff Bingham, Reginald

*[11] Notice of Appeal*

08/06/2021

**Case Appeal Statement**

Filed By: Plaintiff Bingham, Reginald

*[12] Case Appeal Statement***DISPOSITIONS**

06/25/2021

**Order of Dismissal With Prejudice** (Judicial Officer: Jones, David M)

Debtors: Reginald Bingham (Plaintiff)

Creditors: State of Nevada (Defendant)

Judgment: 06/25/2021, Docketed: 06/28/2021

**HEARINGS**

06/22/2021

**Motion to Dismiss (9:00 AM)** (Judicial Officer: Jones, David M)*Respondents' Motion to Dismiss*

Motion Granted;

Journal Entry Details:

*Following arguments by counsel, COURT ORDERED, motion GRANTED.;***DATE****FINANCIAL INFORMATION****Plaintiff** Bingham, Reginald

Total Charges

294.00

Total Payments and Credits

24.00

**Balance Due as of 8/11/2021****270.00**

# DISTRICT COURT CIVIL COVER SHEET

County, Nevada

Case No. \_\_\_\_\_  
(Assigned by Clerk's Office)

CASE NO: A-21-832163-W  
Department 29

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

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

*R. Reginald Bingham*

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

*State of Nevada  
Public Employees Relations  
System*

Attorney (name/address/phone):

*Rich Kearney  
815 S. Casino Center  
20 W. 89101  
7023855534*

Attorney (name/address/phone):

*unk*

**II. Nature of Controversy** (please select the one most applicable filing type below)

**Civil Case Filing Types**

<p><b>Real Property</b></p> <p><b>Landlord/Tenant</b></p> <p><input type="checkbox"/> Unlawful Detainer</p> <p><input type="checkbox"/> Other Landlord/Tenant</p> <p><b>Title to Property</b></p> <p><input type="checkbox"/> Judicial Foreclosure</p> <p><input type="checkbox"/> Other Title to Property</p> <p><b>Other Real Property</b></p> <p><input type="checkbox"/> Condemnation/Eminent Domain</p> <p><input type="checkbox"/> Other Real Property</p>	<p><b>Negligence</b></p> <p><input type="checkbox"/> Auto</p> <p><input type="checkbox"/> Premises Liability</p> <p><input type="checkbox"/> Other Negligence</p> <p><b>Malpractice</b></p> <p><input type="checkbox"/> Medical/Dental</p> <p><input type="checkbox"/> Legal</p> <p><input type="checkbox"/> Accounting</p> <p><input type="checkbox"/> Other Malpractice</p>	<p><b>Torts</b></p> <p><b>Other Torts</b></p> <p><input type="checkbox"/> Product Liability</p> <p><input type="checkbox"/> Intentional Misconduct</p> <p><input type="checkbox"/> Employment Tort</p> <p><input type="checkbox"/> Insurance Tort</p> <p><input type="checkbox"/> Other Tort</p>
<p><b>Probate</b></p> <p><i>Probate (select case type and estate value)</i></p> <p><input type="checkbox"/> Summary Administration</p> <p><input type="checkbox"/> General Administration</p> <p><input type="checkbox"/> Special Administration</p> <p><input type="checkbox"/> Set Aside</p> <p><input type="checkbox"/> Trust/Conservatorship</p> <p><input type="checkbox"/> Other Probate</p> <p><b>Estate Value</b></p> <p><input type="checkbox"/> Over \$200,000</p> <p><input type="checkbox"/> Between \$100,000 and \$200,000</p> <p><input type="checkbox"/> Under \$100,000 or Unknown</p> <p><input type="checkbox"/> Under \$2,500</p>	<p><b>Construction Defect &amp; Contract</b></p> <p><b>Construction Defect</b></p> <p><input type="checkbox"/> Chapter 40</p> <p><input type="checkbox"/> Other Construction Defect</p> <p><b>Contract Case</b></p> <p><input type="checkbox"/> Uniform Commercial Code</p> <p><input type="checkbox"/> Building and Construction</p> <p><input type="checkbox"/> Insurance Carrier</p> <p><input type="checkbox"/> Commercial Instrument</p> <p><input type="checkbox"/> Collection of Accounts</p> <p><input type="checkbox"/> Employment Contract</p> <p><input type="checkbox"/> Other Contract</p>	<p><b>Judicial Review/Appeal</b></p> <p><b>Judicial Review</b></p> <p><input type="checkbox"/> Foreclosure Mediation Case</p> <p><input type="checkbox"/> Petition to Seal Records</p> <p><input type="checkbox"/> Mental Competency</p> <p><b>Nevada State Agency Appeal</b></p> <p><input type="checkbox"/> Department of Motor Vehicle</p> <p><input type="checkbox"/> Worker's Compensation</p> <p><input type="checkbox"/> Other Nevada State Agency</p> <p><b>Appeal Other</b></p> <p><input type="checkbox"/> Appeal from Lower Court</p> <p><input checked="" type="checkbox"/> Other Judicial Review/Appeal</p>
<p><b>Civil Writ</b></p> <p><b>Civil Writ</b></p> <p><input type="checkbox"/> Writ of Habeas Corpus</p> <p><input checked="" type="checkbox"/> Writ of Mandamus</p> <p><input type="checkbox"/> Writ of Quo Warrant</p> <p><input type="checkbox"/> Writ of Prohibition</p> <p><input type="checkbox"/> Other Civil Writ</p>		<p><b>Other Civil Filing</b></p> <p><b>Other Civil Filing</b></p> <p><input type="checkbox"/> Compromise of Minor's Claim</p> <p><input type="checkbox"/> Foreign Judgment</p> <p><input type="checkbox"/> Other Civil Matters</p>

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

Date

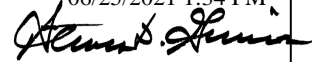
*BA 4/11/21*

Signature of initiating party or representative

*[Signature]*

See other side for family-related case filings.



  
CLERK OF THE COURT

**ORDM**  
AARON D. FORD  
Attorney General  
IAN CARR, Bar No. 13840  
Deputy Attorney General  
State of Nevada  
100 N. Carson Street  
Carson City, Nevada 89701-4717  
Tel: (775) 684-1250  
Email: ICarr@ag.nv.gov

*Attorneys for Respondents, the  
State of Nevada and the Public  
Employees' Retirement System  
of Nevada*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

REGINALD BINGHAM,

Petitioner,

vs.

STATE OF NEVADA, PUBLIC  
EMPLOYEES' RETIREMENT SYSTEM  
OF THE STATE OF NEVADA,

Respondents.

Case No.: A-21-832163-W

Dept. No.: XXIX

**ORDER GRANTING RESPONDENTS'  
MOTION TO DISMISS**

This matter comes before the Court pursuant to Respondents' Motion to Dismiss, which was filed on May 27, 2021. On June 8, 2021 Petitioner filed his Opposition to Respondents' Motion to Dismiss. On June 14, 2021, Respondents filed their Reply in Support of the Motion to Dismiss. The Court heard oral argument on the matter on the morning of June 22, 2021. After reviewing the relevant papers, the Court finds Petitioner Reginald Bingham's case to be wanting, at law. Accordingly, the Court finds and concludes as follows:

**A. This Case Is Barred by the Applicable Statute of Limitations**

Under NRS Chapter 286, a PERS member can only qualify for disability retirement if still employed by a PERS-eligible employer at the time of application. See NRS 286.620(1)(b). Furthermore, a PERS member may only apply for reconsideration of a PERS Board's denial of a disability retirement application within 45 days, if the member discovers

1 evidence which was not known during the original hearing. *See* NRS 286.630(4).

2       The Court finds that Bingham’s original hearing regarding his disability retirement  
3 application occurred on January 21, 2015. In February 2020, Bingham corresponded with  
4 PERS requesting a rehearing; in March 2020 and August 2020, Bingham and PERS  
5 exchanged correspondence regarding PERS’ rejection of Bingham’s request due to  
6 untimeliness. In January 2021, Bingham corresponded with the PERS Board with the  
7 same request, but the PERS Board did not respond. Bingham should have sought a  
8 rehearing within the 45-day timeframe prescribed by NRS 286.630(4), but did not, instead  
9 filing this writ petition seeking a rehearing on April 1, 2021, more than six years untimely.  
10 Therefore, the Court concludes that this case is time-barred pursuant to NRS 286.630(4),  
11 notwithstanding Bingham’s allegations of a conflict of interest against the former PERS  
12 Board Chairman that presided over his original disability retirement application hearing.  
13 The Court finds that the former PERS Board Chairman’s employment as City of Las Vegas  
14 CFO at the time was publicly known; Bingham should have raised the issue at the original  
15 hearing or during the 45-day reconsideration period as prescribed by NRS 286.630(4).

16       Therefore, this case is time-barred, and must be dismissed in its entirety, with  
17 prejudice.

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1 **B. Order**

2 Therefore, after reviewing all the papers relevant to Respondents' Motion to Dismiss  
3 and hearing the arguments of the parties, the Court hereby **GRANTS** Respondents' Motion  
4 to Dismiss and dismisses this case in its entirety, with prejudice.

5 **IT IS SO ORDERED.**

Dated this 25th day of June, 2021

6 

7  
8 HONORABLE DAVID JONES  
DISTRICT COURT JUDGE  
9 638 BFA 530A 9EE8  
David M Jones  
District Court Judge

10  
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14  
15  
16 Submitted by:

17 AARON D. FORD  
18 Attorney General  
19 /s/ Ian Carr

20 IAN CARR (Bar No. 13840)  
Deputy Attorney General  
State of Nevada  
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23  
24 Approved as to form and content by:

25 /s/ Kirk Kennedy  
26 KIRK T. KENNEDY, ESQ. (Bar No. 5032)  
Law Office of Kirk T. Kennedy  
815 S. Casino Center Blvd.  
27 Las Vegas, Nevada 89101  
Tel: (702) 385-5534  
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1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Reginald Bingham, Plaintiff(s)

CASE NO: A-21-832163-W

7 vs.

DEPT. NO. Department 29

8 State of Nevada, Defendant(s)

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11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order of Dismissal was served via the court's electronic eFile system to  
13 all recipients registered for e-Service on the above entitled case as listed below:

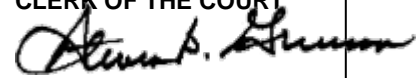
14 Service Date: 6/25/2021

15 Ian Carr

icarr@ag.nv.gov

16 Kirk Kennedy

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1 **NEOJ**  
2 AARON D. FORD  
3 Attorney General  
4 IAN CARR, Bar No. 13840  
5 Deputy Attorney General  
6 State of Nevada  
7 100 N. Carson Street  
8 Carson City, Nevada 89701-4717  
9 Tel: (775) 684-1250  
10 Email: ICarr@ag.nv.gov

11 *Attorneys for Respondents, the*  
12 *State of Nevada and the Public*  
13 *Employees' Retirement System*  
14 *of Nevada*

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

11 REGINALD BINGHAM,

12 Petitioner,

13 vs.

14 STATE OF NEVADA, PUBLIC  
15 EMPLOYEES' RETIREMENT SYSTEM  
16 OF THE STATE OF NEVADA,

16 Respondents.

Case No.: A-21-832163-W

Dept. No.: XXIX

17 **NOTICE OF ENTRY OF ORDER**

18 PLEASE TAKE NOTICE that an Order Granting Respondents' Motion to Dismiss was  
19 signed in the above-entitled matter on the 25th day of June, 2021.

20 A copy of said Order is attached hereto as Exhibit 1.

21 DATED this 7th day of July, 2021.

22 AARON D. FORD  
23 Attorney General

24 By: /s/ Ian Carr  
25 IAN CARR  
26 Deputy Attorney General  
27 State of Nevada  
28 (775) 684-1250  
ICarr@ag.nv.gov  
*Attorneys for Respondents*

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/s/ Karen Easton  
An employee of the Office of the  
Nevada Attorney General

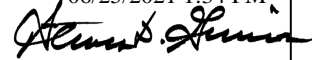
**INDEX OF EXHIBITS**

<b>EXHIBIT No.</b>	<b>EXHIBIT DESCRIPTION</b>	<b>NUMBER OF PAGES</b>
1	Order Granting Respondents' Motion to Dismiss	4

# **EXHIBIT 1**

# **EXHIBIT 1**



  
CLERK OF THE COURT

**ORDM**  
**AARON D. FORD**  
Attorney General  
**IAN CARR**, Bar No. 13840  
Deputy Attorney General  
State of Nevada  
100 N. Carson Street  
Carson City, Nevada 89701-4717  
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*Attorneys for Respondents, the  
State of Nevada and the Public  
Employees' Retirement System  
of Nevada*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

**REGINALD BINGHAM,**

Petitioner,

vs.

**STATE OF NEVADA, PUBLIC  
EMPLOYEES' RETIREMENT SYSTEM  
OF THE STATE OF NEVADA,**

Respondents.

Case No.: A-21-832163-W

Dept. No.: XXIX

**ORDER GRANTING RESPONDENTS'  
MOTION TO DISMISS**

This matter comes before the Court pursuant to Respondents' Motion to Dismiss, which was filed on May 27, 2021. On June 8, 2021 Petitioner filed his Opposition to Respondents' Motion to Dismiss. On June 14, 2021, Respondents filed their Reply in Support of the Motion to Dismiss. The Court heard oral argument on the matter on the morning of June 22, 2021. After reviewing the relevant papers, the Court finds Petitioner Reginald Bingham's case to be wanting, at law. Accordingly, the Court finds and concludes as follows:

**A. This Case Is Barred by the Applicable Statute of Limitations**

Under NRS Chapter 286, a PERS member can only qualify for disability retirement if still employed by a PERS-eligible employer at the time of application. See NRS 286.620(1)(b). Furthermore, a PERS member may only apply for reconsideration of a PERS Board's denial of a disability retirement application within 45 days, if the member discovers

evidence which was not known during the original hearing. *See* NRS 286.630(4).

The Court finds that Bingham's original hearing regarding his disability retirement application occurred on January 21, 2015. In February 2020, Bingham corresponded with PERS requesting a rehearing; in March 2020 and August 2020, Bingham and PERS exchanged correspondence regarding PERS' rejection of Bingham's request due to untimeliness. In January 2021, Bingham corresponded with the PERS Board with the same request, but the PERS Board did not respond. Bingham should have sought a rehearing within the 45-day timeframe prescribed by NRS 286.630(4), but did not, instead filing this writ petition seeking a rehearing on April 1, 2021, more than six years untimely. Therefore, the Court concludes that this case is time-barred pursuant to NRS 286.630(4), notwithstanding Bingham's allegations of a conflict of interest against the former PERS Board Chairman that presided over his original disability retirement application hearing. The Court finds that the former PERS Board Chairman's employment as City of Las Vegas CFO at the time was publicly known; Bingham should have raised the issue at the original hearing or during the 45-day reconsideration period as prescribed by NRS 286.630(4).

Therefore, this case is time-barred, and must be dismissed in its entirety, with prejudice.

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1 **B. Order**

2 Therefore, after reviewing all the papers relevant to Respondents' Motion to Dismiss  
3 and hearing the arguments of the parties, the Court hereby **GRANTS** Respondents' Motion  
4 to Dismiss and dismisses this case in its entirety, with prejudice.

5 **IT IS SO ORDERED.**

Dated this 25th day of June, 2021

6 

7  
8 HONORABLE DAVID JONES  
DISTRICT COURT JUDGE  
9 638 BFA 530A 9EE8  
David M Jones  
District Court Judge

10  
11  
12  
13  
14  
15  
16 Submitted by:

17 AARON D. FORD  
18 Attorney General  
19 /s/ Ian Carr

20 IAN CARR (Bar No. 13840)  
Deputy Attorney General  
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100 N. Carson Street  
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23  
24 Approved as to form and content by:

25 /s/ Kirk Kennedy  
26 KIRK T. KENNEDY, ESQ. (Bar No. 5032)  
Law Office of Kirk T. Kennedy  
815 S. Casino Center Blvd.  
27 Las Vegas, Nevada 89101  
Tel: (702) 385-5534  
28 Email: ktkennedylaw@gmail.com

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Reginald Bingham, Plaintiff(s)

CASE NO: A-21-832163-W

7 vs.

DEPT. NO. Department 29

8 State of Nevada, Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order of Dismissal was served via the court's electronic eFile system to  
13 all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 6/25/2021

15 Ian Carr

icarr@ag.nv.gov

16 Kirk Kennedy

ktkennedylaw@gmail.com

---

A-21-832163-W      Reginald Bingham, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

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June 22, 2021      09:00 AM      Respondents' Motion to Dismiss

HEARD BY:      Jones, David M      COURTROOM: RJC Courtroom 15A

COURT CLERK: Tapia, Michaela

RECORDER:      Delgado-Murphy, Melissa

REPORTER:

PARTIES PRESENT:

Ian Carr      Attorney for Agency, Defendant

Kirk T Kennedy      Attorney for Plaintiff

**JOURNAL ENTRIES**

Following arguments by counsel, COURT ORDERED, motion GRANTED.



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: August 11, 2021  
CASE: A-21-832163-W

RE CASE: REGINALD BINGHAM vs. STATE OF NEVADA

NOTICE OF APPEAL FILED: August 6, 2021

**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
  - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☐ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

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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 (g) 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 GRANTING RESPONDENTS' MOTION TO DISMISS; 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.

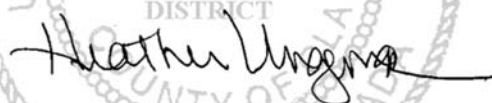
Case No: A-21-832163-W

Dept No: XXIX

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 11 day of August 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk