

Electronically Filed
Jan 03 2022 11:26 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

LAW OFFICE OF DANIEL MARKS
DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
alevine@danielmarks.net
610 South Ninth Street
Las Vegas, Nevada 89101
(702) 386-0536; FAX (702) 386-6812
Attorneys for Petitioner

DISTRICT COURT
CLARK COUNTY, NEVADA

SHARI KASSEBAUM,

Petitioner,

v.

STATE OF NEVADA ex rel, its DEPARTMENT
OF CORRECTIONS, and STATE OF NEVADA ex
rel, its DEPARTMENT OF ADMINISTRATION
PERSONNEL COMMISSION, HEARING
OFFICER, CARA BROWN

Respondents.

Case No.: A-20-810424-P
Dept. No.: 31

NOTICE OF APPEAL

Respondent Shari Kassebaum hereby appeals the Findings of Fact, Conclusions of Law and Order Granting Petition for Judicial Review filed on March 2, 2021, and the Notice of Entry entered in this action on March 3, 2021. (Exhibit "1" attached hereto).

DATED this 21st day of December 2021.

LAW OFFICE OF DANIEL MARKS

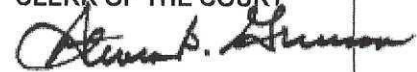


ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
610 South Ninth Street
Las Vegas, Nevada 89101
Attorneys for Plaintiffs

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

Aaron D. Ford, Esq.
Attorney General
Kevin A. Pick, Esq.,
Sr. Deputy Attorney General
Nevada Bar No. 11683
State of Nevada
Office of the Attorney General
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511
Tel: (775) 687-2100
Fax: (775) 688-1822
Email: kpick@ag.nv.gov
Attorneys for Respondent
State of Nevada ex rel its Department of Corrections

An employee of the
LAW OFFICE OF DANIEL MARKS



1 NEFF
LAW OFFICE OF DANIEL MARKS
2 DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
3 office@danielmarks.net
ADAM LEVINE, ESQ.
4 Nevada State Bar No. 004673
alevine@danielmarks.net
5 610 South Ninth Street
Las Vegas, Nevada 89101
6 (702) 386-0536; FAX (702) 386-6812
Email: office@danielmarks.net
7 *Attorneys for Petitioner*

8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

10 SHARI KASSEBAUM,

11 Petitioners,

12 v.

13 STATE OF NEVADA ex rel, its DEPARTMENT
OF CORRECTIONS, and STATE OF NEVADA ex
14 rel, its DEPARTMENT OF ADMINISTRATION
PERSONNEL COMMISSION, HEARING
15 OFFICER, CARA BROWN

16 Respondents.

Case No.: A-20-810424-P

Dept. No.: 31

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW AND
ORDER GRANTING PETITION FOR
JUDICIAL REVIEW**

17
18 ///

19 ///

20 ///

21 ///

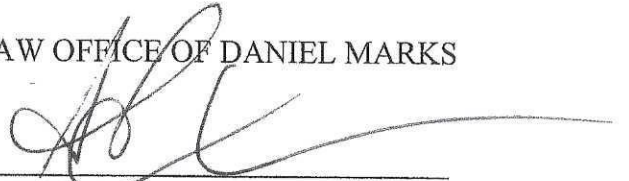
22 ///

1 **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**
2 **GRANTING PETITION FOR JUDICIAL REVIEW**

3 PLEASE TAKE NOTICE that an Order Granting Petition for Judicial Review was entered in
4 the above-entitled action on the 2nd day of March 2021 a copy of which is attached hereto.

5 DATED this 3rd day of March 2021.

6 LAW OFFICE OF DANIEL MARKS

7 

8 DANIEL MARKS, ESQ.

9 Nevada State Bar No. 002003

10 office@danielmarks.net

11 ADAM LEVINE, ESQ.

12 Nevada State Bar No. 004673

13 alevine@danielmarks.net

14 610 South Ninth Street

15 Las Vegas, Nevada 89101

16 *Attorneys for Petitioner*

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4

Kevin Pick, Esq.
Sr. Deputy Attorney General
OFFICE OF THE ATTORNEY GENERAL
Attorney for Respondent NDOC
e-mail: kpick@ag.nv.gov

3



1 FFCO
2 LAW OFFICE OF DANIEL MARKS
3 DANIEL MARKS, ESQ.
4 Nevada State Bar No. 002003
5 office@danielmarks.net
6 ADAM LEVINE, ESQ.
7 Nevada State Bar No. 004673
8 alevine@danielmarks.net
9 610 South Ninth Street
10 Las Vegas, Nevada 89101
11 (702) 386-0536: FAX (702) 386-6812
12 Attorneys for

DISTRICT COURT
CLARK COUNTY, NEVADA

11 SHARI KASSEBAUM,

12 Petitioners,

13 v.

14 STATE OF NEVADA ex rel, its DEPARTMENT
15 OF CORRECTIONS, and STATE OF NEVADA ex
16 rel, its DEPARTMENT OF ADMINISTRATION
PERSONNEL COMMISSION, HEARING
OFFICER, CARA BROWN

17 Respondents.

Case No.: A-20-810424-P
Dept. No.: 31

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER GRANTING
PETITION FOR JUDICIAL REVIEW**

18
19 This matter having come on for hearing on Petitioner's Petition for Judicial Review on the 18th
20 day of February, 2021 at the hour of 9:30 a.m. with Petitioner Shari Kassebaum being represented by
21 and through Adam Levine, Esq. of the Law Office of Daniel Marks and Respondents Nevada
22 Department of Corrections being represented by Kevin A. Pick, Esq. Deputy Attorney General and the
23 remaining Respondents having declined to file a Notice of Intent to Participate; and the Court having
24 heard arguments from the parties hereby makes the following findings of fact and conclusions of law:

<input type="checkbox"/>	Voluntary Dismissal	<input checked="" type="checkbox"/>	Summary Judgment
<input type="checkbox"/>	Involuntary Dismissal	<input type="checkbox"/>	Stipulated Judgment
<input type="checkbox"/>	Stipulated Dismissal	<input type="checkbox"/>	Default Judgment
<input type="checkbox"/>	Motion to Dismiss by Deft(s)	<input type="checkbox"/>	Judgment of Arbitration

FINDINGS OF FACT

1. Shari Kassebaum (hereafter "Kassebaum") was a post-probationary member of the classified service of the State of Nevada employed as a Corrections Sergeant with the Department of Corrections (hereafter "NDOC").

2. Effective July 12, 2019 Kassebaum received a disciplinary suspension of 15 days.

3. NRS 284.390(1) provides in pertinent part "Within 10 working days after the effective date of an employee's dismissal, demotion or suspension pursuant to NRS 284.385, the employee who has been dismissed, demoted or suspended may request in writing a hearing before the hearing officer of the Commission to determine the reasonableness of the action."

4. Kassebaum filed an appeal of the disciplinary suspension on the NPD-54 "Appeal of Dismissal, Suspension, Demotion or Involuntary Transfer" form provided by the State of Nevada Department of Administration within the 10 working days provided for by NRS 284.390. However, Kassebaum did not attach to that NPD-54 form the written notification of the appointing authority's decision as provided for under NAC 284.6562(2)(b). Kassebaum's Appeal was assigned Case No. 2001869 and assigned to Hearing Officer Cara L. Brown.

5. NDOC filed a Motion to Dismiss Kassebaum's Appeal arguing that the failure to attach the written notification as provided for under NAC 284.6562(2)(b) was a jurisdictional defect which could not be cured after the expiration of the 10 working days to file the Appeal.

6. Kassebaum's former counsel filed a "Limited Opposition" which conceded that Employer would prevail on its Motion.

7. Hearing Officer Brown agreed with NDOC that the requirement was jurisdictional and dismissed the Appeal.

8. Kassebaum filed a timely Petition for Judicial Review of the Hearing Officer's decision under NRS 233.130.

1 9. In briefing in support of the Petition for Judicial Review, Kassebaum asserts that NAC
2 284.6562(2)(b) is not jurisdictional, but rather a claims processing rule for which a violation may be
3 waived if not timely asserted, or alternatively cured, that the Appeals form violated due process
4 because its Instructions inform employees they can supplement the form, and that the dismissal of her
5 Appeal unconstitutionally deprived her of a right to a post-deprivation hearing of the sort required by
6 the 14th Amendment's Due Process Clause.

7 10. NDOC asserted in its briefing that NAC 284.6562(2)(b) is jurisdictional, that NAC
8 284.6562(2)(b) is not a claims processing rule, that dismissal is still required even if NAC
9 284.6562(2)(b) is a claims processing rule, that Kassebaum is judicially estopped from making the
10 contrary arguments asserted in her Petition, that Kassebaum is raising new issues for the first time on
11 appeal, that deference must be shown to Hearing Officer Brown's interpretation of NAC
12 284.6562(2)(b), and that Kassebaum had the opportunity to obtain a post-deprivation hearing but failed
13 to take advantage of the administrative procedure.

14 11. Kassebaum asserted in her Reply Brief that the elements of judicial estoppel were not
15 met, that jurisdictional and constitutional claims may be asserted for the first time on appeal, that the
16 requirements to waive a constitutional right to a hearing were not met, and that they Hearing Officer's
17 interpretation was not entitled to deference as it is purely a question of statutory construction and other
18 Hearing Officers had reached the opposite conclusion.

19 12. The Hearing Officer's Decision did not analyze whether NAC 284.6562(2)(b) is a claims
20 processing rule and, if so, whether the appeal should be dismissed or proceed to a hearing on the merits.

21 13. It was agreed by the parties before the Court that Hearing Officer Brown has recently
22 resigned from her position as a Hearing Officer.

23 14. If any of these Findings of Fact are properly considered as Conclusions of Law, they
24 shall be so construed.

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

CONCLUSIONS OF LAW

15. Pursuant to NRS 233B.135 the court may remand a final decision of an administrative agency, or set it aside in whole or in part if substantial rights of the petitioner have been prejudiced because the decision of the agency is:

- (a) In violation of constitutional or statutory provisions;
- (b) In excess of the statutory authority of the agency;
- ...
- (c) Affected by other error of law;

The arguments and authorities raised by Petitioner in her Petition implicate all three (3) subsections of NRS 233B.135 identified above.

16. Because the Hearing Officer's Decision did not adequately analyze or consider whether NAC 284.6562(2)(b) is a claims processing rule or a jurisdictional requirement, and if NAC 284.6562(2)(b) is a claims processing rule whether the case should be dismissed or proceed to a hearing on the merits, this matter must be remanded for assignment to a new Hearing Officer for proper consideration of the arguments raised by the parties.

17. The Court need not reach Petitioner's constitutional argument that dismissal of her Appeal violates the 14th Amendment's Due Process Clause as there are adequate statutory grounds to grant her Petition. *Spears v. Spears*, 95 Nev. 416, 596 P.2d 210 (1979); *Union Pacific R. R. Co. v. Adams*, 77 Nev. 282, 362 P.2d 450 (1961).

18. If any of these Conclusions of Law are properly considered as Findings of Fact, they shall be so construed.

///

///

///

1 DECISION

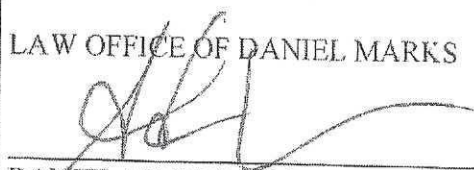
2 For all the reasons set forth above the Petition for Judicial Review is *granted*. The Order of the
3 Hearing Officer in Case No. 2001869-CB filed January 14, 2020 dismissing Kassebaum's Appeal with
4 prejudice is *reversed* and remanded back to the Department of Administration for assignment of a new
5 Hearing Officer for further proceedings to determine whether the Appeal should be dismissed, or
6 alternatively heard on the merits.

7 DATED this 2nd day of March 2021.


8 
9 THOMAS S. KUSHNER
DISTRICT COURT JUDGE

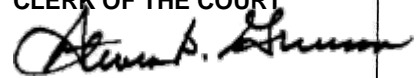
10 Respectfully submitted by:

11 LAW OFFICE OF DANIEL MARKS

12 
13 DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
14 office@danielmarks.net
ADAM LEVINE, ESQ.
15 Nevada State Bar No. 004673
alevine@danielmarks.net
16 610 South Ninth Street
Las Vegas, Nevada 89101
17 Attorneys for Petitioner

18 Approval as to Form and Content:

19 
20 AARON D. FORD, Nevada Attorney General
21 KEVIN A. PICK, ESQ., Sr. Deputy Attorney General
Nevada State Bar No. 011683
kpick@ag.nv.gov
22 5420 Kietzke Lane, Suite 202
Reno, Nevada 89511
23 Attorneys for Respondent State of Nevada
24 ex rel Department of Corrections



LAW OFFICE OF DANIEL MARKS
DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
alevine@danielmarks.net
610 South Ninth Street
Las Vegas, Nevada 89101
(702) 386-0536; FAX (702) 386-6812
Attorneys for Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

SHARI KASSEBAUM,

Petitioner,

Case No.: A-20-810424-P
Dept. No.: 31

v.

CASE APPEAL STATEMENT

STATE OF NEVADA ex rel, its DEPARTMENT
OF CORRECTIONS, and STATE OF NEVADA ex
rel, its DEPARTMENT OF ADMINISTRATION
PERSONNEL COMMISSION, HEARING
OFFICER, CARA BROWN

Respondents.

1. Name of appellant filing this case appeal statement:

Shari Kassebaum.

2. Identify the judge issuing the decision, judgment or order appealed from:

District Court Judge Joanna S. Kishner.

3. Identify each appellant and the name and address of counsel for each appellant:

Shari Kassebaum, Appellant:

Adam Levine, Esq., Law Office of Daniel Marks, 610 South Ninth Street, Las Vegas, Nevada
89101.

///

///

1 **4. Identify each respondent and the names and address of appellant counsel, if known, for**
2 **each respondent (if the names of a respondent's appellant counsel is unknown, indicate as much**
3 **and provide the name and address of that respondent's trial counsel):**

4 State of Nevada, ex rel. its Department of Corrections, Respondent:

5 Kevin A. Pick, Esq., Senior. Deputy Attorney General, Nevada Bar No. 11683, State of Nevada
6 Office of the Attorney General, 5420 Kietzke Lane, Suite 202, Reno, Nevada 89511;

7 State of Nevada ex rel, its Department Of Administration Personnel Commission:

8 Kevin A. Pick, Esq., Senior. Deputy Attorney General, Nevada Bar No. 11683, State of Nevada
9 Office of the Attorney General, 5420 Kietzke Lane, Suite 202, Reno, Nevada 89511;

10 Hearing Officer Cara Brown, unknown whether this entity will be Respondent or Cross
11 Appellant:

12 Kevin A. Pick, Esq., Senior. Deputy Attorney General, Nevada Bar No. 11683, State of Nevada
13 Office of the Attorney General, 5420 Kietzke Lane, Suite 202, Reno, Nevada 89511.

14 **5. Indicate whether any attorney identified above in response to question 3 or 4 is not**
15 **licensed to practice law in Nevada and, if so, whether the district court granted that attorney**
16 **permission to appear under SCR 42 (attach a copy of any district court order granting such**
17 **permission):**

18 n/a.

19 **6. Indicate whether appellant was represented by appointed or retained counsel in district**
20 **court:**

21 Appellant was represented by retained counsel.

22 **7. Indicate whether appellant was represented by appointed or retained counsel on appeal:**

23 Appellant is being represented by retained counsel.

24 **8. Indicate whether appellant is granted leave to proceed in forma pauperis, and the date of**
25 **entry of the district court order granting such leave:**

n/a.

///

1 **9. Indicate the date the proceedings commenced in the district court:**

2 The Petition for Judicial Review was filed on February 13, 2020.

3 **10. A brief description of the nature of the action and result in the district court:**

4 The Petition for Judicial Review was filed by Appellant after her appeal of a 15 day suspension
5 pursuant to NRS 284.390 was dismissed without a hearing by a State Hearing Officer due to the failure
6 to attach the final decision of the employer pursuant to NAC 284.656(2). The district court granted
7 judicial review and remanded the matter back to the Hearing and Officer to ascertain whether NAC
8 284.656(2) was jurisdictional, or only a claims processing rule. On remand from Judicial Review the
9 Hearing Officer issued his decision on December 9, 2021 affirming the dismissal on jurisdictional
10 grounds (and thus rendering the district court's decision to be a final judgment for purposes of NRAP
11 3A).

12 **11. Indicate whether this case has previously been the subject on appeal:**

13 No.

14 **12. Indicate whether this appeal involves child custody or visitation:**


15 No.

16 **13. Indicate whether this appeal involves the possibility of settlement:**

17 Yes.

18 DATED this 21st day of December 2021.

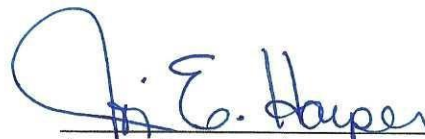
19 LAW OFFICE OF DANIEL MARKS

20 
21 DANIEL MARKS, ESQ.
22 Nevada State Bar No. 002003
23 ADAM LEVINE, ESQ.
24 Nevada State Bar No. 004673
25 610 South Ninth Street
Las Vegas, Nevada 89101
(702) 386-0536: FAX (702) 386-6812
Attorneys for Appellant

1 **CERTIFICATE OF SERVICE BY ELECTRONIC MEANS**

2 I hereby certify that I am an employee of the Law Office of Daniel Marks and that on the 21st
3 day of December 2021, I did serve the above and forgoing CASE APPEAL STATEMENT, by way of
4 Notice of Electronic Filing provided by the court mandated E-file & Serve service, upon Respondents
5 at the following:

6 Aaron D. Ford, Esq.
7 Attorney General
8 Kevin A. Pick, Esq.,
 Sr. Deputy Attorney General
 Nevada Bar No. 11683
 State of Nevada
9 Office of the Attorney General
 5420 Kietzke Lane, Suite 202
10 Reno, Nevada 89511
 Tel: (775) 687-2100
11 Fax: (775) 688-1822
 Email: kpick@ag.nv.gov
 Attorneys for Respondent
12 State of Nevada ex rel its Department of Corrections

13
14
15 

16 An employee of the
17 LAW OFFICE OF DANIEL MARKS
18
19
20
21
22
23
24
25

CASE SUMMARY

CASE NO. A-20-810424-P

In the Matter of the Petition of
Shari Kassebaum

§
§
§
§
§

Location: **Department 31**
Judicial Officer: **Kishner, Joanna S.**
Filed on: **02/13/2020**
Cross-Reference Case Number: **A810424**

CASE INFORMATION

Statistical Closures

03/02/2021 Summary Judgment

Case Type: **Other Civil Filings (Petition)**

Case Status: **03/02/2021 Closed**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-20-810424-P
Court Department 31
Date Assigned 02/13/2020
Judicial Officer Kishner, Joanna S.

PARTY INFORMATION





		Lead Attorneys
Petitioner	Kassebaum, Shari	Levine, Adam <i>Retained</i> 7023860536(W)
Respondent	Brown, Cara	
	Department of Corrections	Pick, Kevin A. <i>Retained</i> 775-786-2882(W)
	Dept of Administration Personel Commission	
	State of Nevada	Pick, Kevin A. <i>Retained</i> 775-786-2882(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX

EVENTS

02/13/2020	 Petition for Judicial Review Filed by: Petitioner Kassebaum, Shari <i>[1] Petition for Judicial Review</i>
02/13/2020	 Initial Appearance Fee Disclosure Filed By: Petitioner Kassebaum, Shari <i>[2] Initial Appearance Fee Disclosure</i>
02/24/2020	 Proof of Service Filed by: Petitioner Kassebaum, Shari Party Served: Respondent Dept of Administration Personel Commission <i>[3] Proof of Service</i>
02/28/2020	 Proof of Service Filed by: Petitioner Kassebaum, Shari

CASE SUMMARY

CASE NO. A-20-810424-P

[4] Proof of Service - NDOC

02/28/2020



Proof of Service

Filed by: Petitioner Kassebaum, Shari

[5] Proof of Service - NDOC AG

02/28/2020



Proof of Service

Filed by: Petitioner Kassebaum, Shari

[6] Proof of Service - ADMIN AG

03/03/2020



Statement of Intent to Participate in Petition for Judicial

Filed By: Respondent Department of Corrections

[7] Statement of Intent to Participate in Petition for Judicial Review

05/07/2020



Motion to Consolidate

Filed By: Petitioner Kassebaum, Shari

[8] Motion to Consolidate with Case No. A-20-810424-P, A-20-811982-J and A-20-813237-J

05/08/2020



Clerk's Notice of Hearing

[9] Notice of Hearing

05/20/2020



Opposition to Motion

Filed By: Respondent Department of Corrections

[10] Opposition to Motion to Consolidate

06/02/2020



Reply in Support

Filed By: Petitioner Kassebaum, Shari

[11] Reply in Support of Motion to Consolidate With Case Nos. A-20-810424-P, A-20-811982-J and A-20-813237-J

06/05/2020



Stipulation and Order

Filed by: Petitioner Kassebaum, Shari

[12] Stipulation and Order to Vacate Hearing

10/16/2020



Transmittal of Record on Appeal

Party: Respondent State of Nevada

[13] Transmittal of Record on Appeal

10/16/2020



Affidavit

Filed By: Respondent State of Nevada

[14] Affidavit

10/16/2020



Certification of Transmittal

Party: Respondent State of Nevada

[15] Certification of Transmittal

11/04/2020



Stipulation and Order

Filed by: Petitioner Kassebaum, Shari

[16] Stipulation and Order to Extend Time for Filing Petitioner's Opening Brief (First Request)

11/06/2020



Notice of Entry of Order

Filed By: Petitioner Kassebaum, Shari

[17] Notice of Entry of Order to Extend Time

CASE SUMMARY
CASE NO. A-20-810424-P

12/14/2020	 Petitioners Opening Brief Filed by: Petitioner Kassebaum, Shari <i>[18] Petitioner Shari Kassebaum's Opening Brief</i>
12/22/2020	 Notice of Hearing <i>[19] Notice of Hearing for Oral Argument and/or Decision</i>
01/12/2021	 Respondent's Answering Brief Filed by: Respondent Department of Corrections <i>[20] Department of Correction's Answering Brief</i>
02/02/2021	 Petitioner's Reply Brief Filed by: Petitioner Kassebaum, Shari <i>[21] Petitioner Shari Kassebaum's Reply Brief</i>
02/02/2021	 Request Filed by: Petitioner Kassebaum, Shari <i>[22] Petitioner's Request for Hearing</i>
02/11/2021	 Memorandum <i>[23] Court's Memo RE: Hearing Continuance</i>
02/16/2021	 Memorandum <i>[24] Court's Memo RE: Remote Appearance Information for February 18, 2021, Hearing</i>
03/02/2021	 Findings of Fact, Conclusions of Law and Order Filed By: Petitioner Kassebaum, Shari <i>[25] Findings of Fact, Conclusions of Law, and Order Granting Petition for Judicial Review</i>
03/03/2021	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Petitioner Kassebaum, Shari <i>[26] Notice of Entry of Findings of Facts, Conclusions of Law and Order Granting Petition for Judicial Review</i>
12/21/2021	 Notice of Appeal Filed By: Petitioner Kassebaum, Shari <i>[27] Notice of Appeal</i>
12/21/2021	 Case Appeal Statement Filed By: Petitioner Kassebaum, Shari <i>[28] Case Appeal Statement</i>

DISPOSITIONS

03/02/2021	Order Granting Judicial Review (Judicial Officer: Kishner, Joanna S.) Debtors: State of Nevada (Respondent), Dept of Administration Personel Commission (Respondent), Department of Corrections (Respondent), Cara Brown (Respondent) Creditors: Shari Kassebaum (Petitioner) Judgment: 03/02/2021, Docketed: 03/02/2021
------------	--

HEARINGS

06/10/2020	CANCELED Motion to Consolidate (9:00 AM) (Judicial Officer: Kishner, Joanna S.) <i>Vacated - per Stipulation and Order</i> <i>Motion to Consolidate with Case No. A-20-810424-P, A-20-811982-J and A-20-813237-J</i>
------------	---

CASE SUMMARY

CASE NO. A-20-810424-P

02/18/2021



Petition for Judicial Review (9:30 AM) (Judicial Officer: Kishner, Joanna S.)

Oral argument and/or Decision

Granted;

Journal Entry Details:

Arguments by counsel regarding the merits of the Petition for Judicial Review. COURT stated FINDINGS and ORDERED, Petition GRANTED; Decision REVERSED and REMANDED. COURT DIRECTED counsel for the Petitioner to prepare a detailed Findings of Fact and Conclusions of Law (FFCL), circulate it to all parties and submit to Chambers for consideration within fourteen (14) days in accordance with EDCR 7.21. When submitting the order, counsel must ensure it is submitted electronically to dc31inbox@clarkcountycourts.us in accordance with Administrative Orders 20-17 and 20-24. Ms. Levine requested additional 30 days to submit the FFCL including the 10 days. COURT ORDERED, request GRANTED under EDCR 7.21 for a total of 30 days.;

DATE

FINANCIAL INFORMATION

Petitioner Kassebaum, Shari

Total Charges

294.00

Total Payments and Credits

294.00

Balance Due as of 12/27/2021

0.00

DISTRICT COURT CIVIL COVER SHEET

County, Nevada
Case No. _____
(Assigned by Clerk's Office)

CASE NO: A-20-810424-P
Department 31

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

Plaintiff(s) (name/address/phone): Shari Kassebaum 7644 Splashing River Court Las Vegas, Nevada 89131 (559) 903-3225	Defendant(s) (name/address/phone): State of Nevada, Department of Corrections 5500 Snyder Avenue, Bldg. 17/ P.O. Box 7011 Carson City, Nevada 89702 (775) 887-3285
Attorney (name/address/phone): Adam Levine, Esq. Law Office of Daniel Marks 610 S. 9th Street, Las Vegas, Nevada 89101 (702) 386-0536	Attorney (name/address/phone): Adam Paul Laxalt, Attorney General Nevada Attorney General's Office 100 North Carson Street, Carson City, NV 89701- 4717 (775) 684-1100

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

Civil Case Filing Types

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

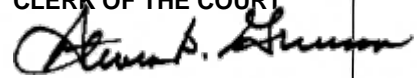
Business Court filings should be filed using the Business Court civil coversheet.

2/12/2020

Date

Signature of initiating party or representative

See other side for family-related case filings.



FFCO
LAW OFFICE OF DANIEL MARKS
DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
office@danielmarks.net
ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
alevine@danielmarks.net
610 South Ninth Street
Las Vegas, Nevada 89101
(702) 386-0536: FAX (702) 386-6812
Attorneys for

DISTRICT COURT
CLARK COUNTY, NEVADA

SHARI KASSEBAUM,

Petitioners,

v.

STATE OF NEVADA ex rel, its DEPARTMENT
OF CORRECTIONS, and STATE OF NEVADA ex
rel, its DEPARTMENT OF ADMINISTRATION
PERSONNEL COMMISSION, HEARING
OFFICER, CARA BROWN

Respondents.

Case No.: A-20-810424-P
Dept. No.: 31

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER GRANTING
PETITION FOR JUDICIAL REVIEW**

This matter having come on for hearing on Petitioner's Petition for Judicial Review on the 18th day of February, 2021 at the hour of 9:30 a.m. with Petitioner Shari Kassebaum being represented by and through Adam Levine, Esq. of the Law Office of Daniel Marks and Respondents Nevada Department of Corrections being represented by Kevin A. Pick, Esq. Deputy Attorney General and the remaining Respondents having declined to file a Notice of Intent to Participate; and the Court having heard arguments from the parties hereby makes the following findings of fact and conclusions of law:

<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

1 **FINDINGS OF FACT**

2 1. Shari Kassebaum (hereafter "Kassebaum") was a post-probationary member of the
3 classified service of the State of Nevada employed as a Corrections Sergeant with the Department of
4 Corrections (hereafter "NDOC").

5 2. Effective July 12, 2019 Kassebaum received a disciplinary suspension of 15 days.

6 3. NRS 284.390(1) provides in pertinent part "Within 10 working days after the effective
7 date of an employee's dismissal, demotion or suspension pursuant to NRS 284.385, the employee who
8 has been dismissed, demoted or suspended may request in writing a hearing before the hearing officer
9 of the Commission to determine the reasonableness of the action."

10 4. Kassebaum filed an appeal of the disciplinary suspension on the NPD-54 "Appeal of
11 Dismissal, Suspension, Demotion or Involuntary Transfer" form provided by the State of Nevada
12 Department of Administration within the 10 working days provided for by NRS 284.390. However,
13 Kassebaum did not attach to that NPD-54 form the written notification of the appointing authority's
14 decision as provided for under NAC 284.6562(2)(b). Kassebaum's Appeal was assigned Case No.
15 2001869 and assigned to Hearing Officer Cara L. Brown.

16 5. NDOC filed a Motion to Dismiss Kassebaum's Appeal arguing that the failure to attach
17 the written notification as provided for under NAC 284.6562(2)(b) was a jurisdictional defect which
18 could not be cured after the expiration of the 10 working days to file the Appeal.

19 6. Kassebaum's former counsel filed a "Limited Opposition" which conceded that
20 Employer would prevail on its Motion.

21 7. Hearing Officer Brown agreed with NDOC that the requirement was jurisdictional and
22 dismissed the Appeal.

23 8. Kassebaum filed a timely Petition for Judicial Review of the Hearing Officer's decision
24 under NRS 233.130.

1 9. In briefing in support of the Petition for Judicial Review, Kassebaum asserts that NAC
2 284.6562(2)(b) is not jurisdictional, but rather a claims processing rule for which a violation may be
3 waived if not timely asserted, or alternatively cured, that the Appeals form violated due process
4 because its Instructions inform employees they can supplement the form, and that the dismissal of her
5 Appeal unconstitutionally deprived her of a right to a post-deprivation hearing of the sort required by
6 the 14th Amendment's Due Process Clause.

7 10. NDOC asserted in its briefing that NAC 284.6562(2)(b) is jurisdictional, that NAC
8 284.6562(2)(b) is not a claims processing rule, that dismissal is still required even if NAC
9 284.6562(2)(b) is a claims processing rule, that Kassebaum is judicially estopped from making the
10 contrary arguments asserted in her Petition, that Kassebaum is raising new issues for the first time on
11 appeal, that deference must be shown to Hearing Officer Brown's interpretation of NAC
12 284.6562(2)(b), and that Kassebaum had the opportunity to obtain a post-deprivation hearing but failed
13 to take advantage of the administrative procedure.

14 11. Kassebaum asserted in her Reply Brief that the elements of judicial estoppel were not
15 met, that jurisdictional and constitutional claims may be asserted for the first time on appeal, that the
16 requirements to waive a constitutional right to a hearing were not met, and that they Hearing Officer's
17 interpretation was not entitled to deference as it is purely a question of statutory construction and other
18 Hearing Officers had reached the opposite conclusion.

19 12. The Hearing Officer's Decision did not analyze whether NAC 284.6562(2)(b) is a claims
20 processing rule and, if so, whether the appeal should be dismissed or proceed to a hearing on the merits.

21 13. It was agreed by the parties before the Court that Hearing Officer Brown has recently
22 resigned from her position as a Hearing Officer.

23 14. If any of these Findings of Fact are properly considered as Conclusions of Law, they
24 shall be so construed.

1

2

- 5

6

8

9

1

2

6

7

8

1 DECISION

2 For all the reasons set forth above the Petition for Judicial Review is *granted*. The Order of the
3 Hearing Officer in Case No. 2001869-CB filed January 14, 2020 dismissing Kassebaum's Appeal with
4 prejudice is *reversed* and remanded back to the Department of Administration for assignment of a new
5 Hearing Officer for further proceedings to determine whether the Appeal should be dismissed, or
6 alternatively heard on the merits.

7 DATED this 2nd day of March 2021.


8 
9 JOANNA S. KISHNER
DISTRICT COURT JUDGE

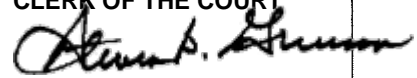
10 Respectfully submitted by:

11 LAW OFFICE OF DANIEL MARKS

12 
13 DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
14 office@danielmarks.net
ADAM LEVINE, ESQ.
15 Nevada State Bar No. 004673
alevine@danielmarks.net
16 610 South Ninth Street
Las Vegas, Nevada 89101
17 *Attorneys for Petitioner*

18 Approval as to Form and Content:

19 
20 AARON D. FORD, Nevada Attorney General
KEVIN A. PICK, ESQ., Sr. Deputy Attorney General
21 Nevada State Bar No. 011683
kpick@ag.nv.gov
22 5420 Kietzke Lane, Suite 202
Reno, Nevada 89511
23 *Attorneys for Respondent State of Nevada*
24 *ex rel Department of Corrections*



1 NEFF
2 LAW OFFICE OF DANIEL MARKS
3 DANIEL MARKS, ESQ.
4 Nevada State Bar No. 002003
5 office@danielmarks.net
6 ADAM LEVINE, ESQ.
7 Nevada State Bar No. 004673
8 alevine@danielmarks.net
9 610 South Ninth Street
10 Las Vegas, Nevada 89101
11 (702) 386-0536; FAX (702) 386-6812
12 Email: office@danielmarks.net
13 *Attorneys for Petitioner*

8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

10 SHARI KASSEBAUM,

11 Petitioners,

12 v.

13 STATE OF NEVADA ex rel, its DEPARTMENT
14 OF CORRECTIONS, and STATE OF NEVADA ex
15 rel, its DEPARTMENT OF ADMINISTRATION
16 PERSONNEL COMMISSION, HEARING
17 OFFICER, CARA BROWN

18 Respondents.

Case No.: A-20-810424-P

Dept. No.: 31

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW AND
ORDER GRANTING PETITION FOR
JUDICIAL REVIEW**

18 ///

19 ///

20 ///

21 ///


22 ///

1 **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**
2 **GRANTING PETITION FOR JUDICIAL REVIEW**

3 PLEASE TAKE NOTICE that an Order Granting Petition for Judicial Review was entered in
4 the above-entitled action on the 2nd day of March 2021 a copy of which is attached hereto.


5 DATED this 3rd day of March 2021.

6 LAW OFFICE OF DANIEL MARKS

7 
8 DANIEL MARKS, ESQ.
9 Nevada State Bar No. 002003
10 office@danielmarks.net
11 ADAM LEVINE, ESQ.
12 Nevada State Bar No. 004673
13 alevine@danielmarks.net
14 610 South Ninth Street
15 Las Vegas, Nevada 89101
16 Attorneys 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

Kevin Pick, Esq.
Sr. Deputy Attorney General
OFFICE OF THE ATTORNEY GENERAL
Attorney for Respondent NDOC
e-mail: kpick@ag.nv.gov


An employee of the
LAW OFFICE OF DANIEL MARKS



1 FFCO
2 LAW OFFICE OF DANIEL MARKS
3 DANIEL MARKS, ESQ.
4 Nevada State Bar No. 002003
5 office@danielmarks.net
6 ADAM LEVINE, ESQ.
7 Nevada State Bar No. 004673
8 alevine@danielmarks.net
9 610 South Ninth Street
10 Las Vegas, Nevada 89101
11 (702) 386-0536: FAX (702) 386-6812
12 Attorneys for

DISTRICT COURT
CLARK COUNTY, NEVADA

11 SHARI KASSEBAUM,
12 Petitioners,

Case No.: A-20-810424-P
Dept. No.: 31

13 v.

14 STATE OF NEVADA ex rel, its DEPARTMENT
15 OF CORRECTIONS, and STATE OF NEVADA ex
16 rel, its DEPARTMENT OF ADMINISTRATION
PERSONNEL COMMISSION, HEARING
OFFICER, CARA BROWN

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER GRANTING
PETITION FOR JUDICIAL REVIEW**

17 Respondents.

18
19 This matter having come on for hearing on Petitioner's Petition for Judicial Review on the 18th
20 day of February, 2021 at the hour of 9:30 a.m. with Petitioner Shari Kassebaum being represented by
21 and through Adam Levine, Esq. of the Law Office of Daniel Marks and Respondents Nevada
22 Department of Corrections being represented by Kevin A. Pick, Esq. Deputy Attorney General and the
23 remaining Respondents having declined to file a Notice of Intent to Participate; and the Court having
24 heard arguments from the parties hereby makes the following findings of fact and conclusions of law:

<input type="checkbox"/>	Voluntary Dismissal	<input checked="" type="checkbox"/>	Summary Judgment
<input type="checkbox"/>	Involuntary Dismissal	<input type="checkbox"/>	Stipulated Judgment
<input type="checkbox"/>	Stipulated Dismissal	<input type="checkbox"/>	Default Judgment
<input type="checkbox"/>	Motion to Dismiss by Deft(s)	<input type="checkbox"/>	Judgment of Arbitration

1 FINDINGS OF FACT

2 1. Shari Kassebaum (hereafter "Kassebaum") was a post-probationary member of the
3 classified service of the State of Nevada employed as a Corrections Sergeant with the Department of
4 Corrections (hereafter "NDOC").

5 2. Effective July 12, 2019 Kassebaum received a disciplinary suspension of 15 days.

6 3. NRS 284.390(1) provides in pertinent part "Within 10 working days after the effective
7 date of an employee's dismissal, demotion or suspension pursuant to NRS 284.385, the employee who
8 has been dismissed, demoted or suspended may request in writing a hearing before the hearing officer
9 of the Commission to determine the reasonableness of the action."

10 4. Kassebaum filed an appeal of the disciplinary suspension on the NPD-54 "Appeal of
11 Dismissal, Suspension, Demotion or Involuntary Transfer" form provided by the State of Nevada
12 Department of Administration within the 10 working days provided for by NRS 284.390. However,
13 Kassebaum did not attach to that NPD-54 form the written notification of the appointing authority's
14 decision as provided for under NAC 284.6562(2)(b). Kassebaum's Appeal was assigned Case No.
15 2001869 and assigned to Hearing Officer Cara L. Brown.

16 5. NDOC filed a Motion to Dismiss Kassebaum's Appeal arguing that the failure to attach
17 the written notification as provided for under NAC 284.6562(2)(b) was a jurisdictional defect which
18 could not be cured after the expiration of the 10 working days to file the Appeal.

19 6. Kassebaum's former counsel filed a "Limited Opposition" which conceded that
20 Employer would prevail on its Motion.

21 7. Hearing Officer Brown agreed with NDOC that the requirement was jurisdictional and
22 dismissed the Appeal.

23 8. Kassebaum filed a timely Petition for Judicial Review of the Hearing Officer's decision
24 under NRS 233.130.

1 9. In briefing in support of the Petition for Judicial Review, Kassebaum asserts that NAC
2 284.6562(2)(b) is not jurisdictional, but rather a claims processing rule for which a violation may be
3 waived if not timely asserted, or alternatively cured, that the Appeals form violated due process
4 because its Instructions inform employees they can supplement the form, and that the dismissal of her
5 Appeal unconstitutionally deprived her of a right to a post-deprivation hearing of the sort required by
6 the 14th Amendment's Due Process Clause.

7 10. NDOC asserted in its briefing that NAC 284.6562(2)(b) is jurisdictional, that NAC
8 284.6562(2)(b) is not a claims processing rule, that dismissal is still required even if NAC
9 284.6562(2)(b) is a claims processing rule, that Kassebaum is judicially estopped from making the
10 contrary arguments asserted in her Petition, that Kassebaum is raising new issues for the first time on
11 appeal, that deference must be shown to Hearing Officer Brown's interpretation of NAC
12 284.6562(2)(b), and that Kassebaum had the opportunity to obtain a post-deprivation hearing but failed
13 to take advantage of the administrative procedure.

14 11. Kassebaum asserted in her Reply Brief that the elements of judicial estoppel were not
15 met, that jurisdictional and constitutional claims may be asserted for the first time on appeal, that the
16 requirements to waive a constitutional right to a hearing were not met, and that they Hearing Officer's
17 interpretation was not entitled to deference as it is purely a question of statutory construction and other
18 Hearing Officers had reached the opposite conclusion.

19 12. The Hearing Officer's Decision did not analyze whether NAC 284.6562(2)(b) is a claims
20 processing rule and, if so, whether the appeal should be dismissed or proceed to a hearing on the merits.

21 13. It was agreed by the parties before the Court that Hearing Officer Brown has recently
22 resigned from her position as a Hearing Officer.

23 14. If any of these Findings of Fact are properly considered as Conclusions of Law, they
24 shall be so construed.

1

2

- 5

9

T

1

1

1 DECISION

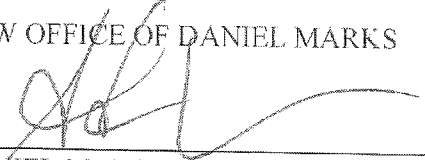
2 For all the reasons set forth above the Petition for Judicial Review is *granted*. The Order of the
3 Hearing Officer in Case No. 2001869-CB filed January 14, 2020 dismissing Kassebaum's Appeal with
4 prejudice is *reversed* and remanded back to the Department of Administration for assignment of a new
5 Hearing Officer for further proceedings to determine whether the Appeal should be dismissed, or
6 alternatively heard on the merits.

7 DATED this 2nd day of March 2021.


8 
9 JAMES S. KISHNER
DISTRICT COURT JUDGE

10 Respectfully submitted by:

11 LAW OFFICE OF DANIEL MARKS

12 
13 DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
14 office@danielmarks.net
ADAM LEVINE, ESQ.
15 Nevada State Bar No. 004673
alevine@danielmarks.net
16 610 South Ninth Street
Las Vegas, Nevada 89101
17 Attorneys for Petitioner

18 Approval as to Form and Content:

19 
20 AARON D. FORD, Nevada Attorney General
21 KEVIN A. PICK, ESQ., Sr. Deputy Attorney General
Nevada State Bar No. 011683
kpick@ag.nv.gov
22 5420 Kietzke Lane, Suite 202
Reno, Nevada 89511
23 Attorneys for Respondent State of Nevada
ex rel Department of Corrections
24

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filings (Petition)

COURT MINUTES

February 18, 2021

A-20-810424-P In the Matter of the Petition of
Shari Kassebaum

February 18, 2021 9:30 AM Petition for Judicial Review

HEARD BY: Kishner, Joanna S. **COURTROOM:** RJC Courtroom 12B

COURT CLERK: Natalie Ortega

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT: Levine, Adam Attorney
 Pick, Kevin A. Attorney

JOURNAL ENTRIES

- Arguments by counsel regarding the merits of the Petition for Judicial Review. COURT stated FINDINGS and ORDERED, Petition GRANTED; Decision REVERSED and REMANDED. COURT DIRECTED counsel for the Petitioner to prepare a detailed Findings of Fact and Conclusions of Law (FFCL), circulate it to all parties and submit to Chambers for consideration within fourteen (14) days in accordance with EDCR 7.21. When submitting the order, counsel must ensure it is submitted electronically to dc31inbox@clarkcountycourts.us in accordance with Administrative Orders 20-17 and 20-24. Ms. Levine requested additional 30 days to submit the FFCL including the 10 days. COURT ORDERED, request GRANTED under EDCR 7.21 for a total of 30 days.



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

DANIEL MARKS, ESQ.
610 S. NINTH ST.
LAS VEGAS, NV 89101

DATE: December 27, 2021
CASE: A-20-810424-P

RE CASE: SHARI KASSEBAUM vs. STATE OF NEVADA; DEPARTMENT OF CORRECTIONS;
DEPARTMENT OF ADMINISTRATION PERSONNEL COMMISSION, HEARING OFFICER; CARA BROWN

NOTICE OF APPEAL FILED: December 21, 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

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; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER GRANTING PETITION FOR JUDICIAL REVIEW; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER GRANTING PETITION FOR JUDICIAL REVIEW; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

SHARI KASSEBAUM,

Plaintiff(s),

vs.

STATE OF NEVADA; DEPARTMENT OF
CORRECTIONS; DEPARTMENT OF
ADMINISTRATION PERSONNEL
COMMISSION, HEARING OFFICER; CARA
BROWN,

Defendant(s),

Case No: A-20-810424-P

Dept No: XXXI

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 27 day of December 2021.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

