

Electronically Filed
Sep 06 2022 01:59 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

1 Bryan p Bonham

2 po Box 650 HDSP

3 Indian Springs, Nev 89070

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11TH JUDICIAL DISTRICT COURT

6

PERSHING COUNTY, NEVADA

7

8 Bryan p Bonham

CASE NO 27-CV-WR3-2019-0039

9

Plaintiff

DEPT NO 1

10

vs.

11

Barbara K. Cepuske

NOTICE OF APPEAL

12

Defendant

13

14 TO

15

DEPUTY ATTORNEY GENERAL

16

Douglas R. Rands

17

100 N CARSON ST.

18

Carson City, Nev 89701

19

20 please take notice that the undersigned in the above Action gives HIS Notice of Appeal

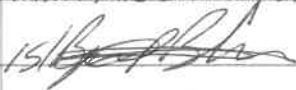
21 of order given on 06/24/2022. Dismissing HIS Amended complaint. (1st Amended, 2nd

22 complaint.) Amended complaint on 06/27/2022

23

Dated This ^{18th} ~~30th~~ day of July, 2022

24

15/ 

25

Bryan p Bonham 60575

26

PO Box 650 HDSP

27

Indian Springs, Nev 89070

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Case No. 27CV-WR3-2019-0039

Pursuant to NRS 239B.030, the undersigned affirms that this Document does not contain the social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

BRYAN P. BONHAM,

Plaintiff,

vs.

BARBARA K. CEGAVSKE,

Defendant.

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:

Bryan P. Bonham

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

Honorable Jim C. Shirley

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

Bryan P. Bonham #60575

Pro Per
P.O. Box 650
High Desert State Prison
Indian Springs, NV 89070

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

6 Barbara K. Cegavaske

7 Office of the Attorney General
8 100 North Carson Street
9 Carson City, NV. 89701-4717

- 10 5. Indicate whether any attorney identified above in response to question 3 or
- 11 4 is not licensed to practice law in Nevada and, if so whether the district
- 12 court granted that attorney permission to appear under SCR 42 (attach a
- 13 copy of any district court order granting such permission):

14 N/A

- 15 6. Indicate whether appellant was represented by appointed or retained counsel
- 16 in the district court:

17 No, Pro Per

- 18 7. Indicate whether appellant is represented by appointed or retained counsel
- 19 on appeal:

20 No

- 21 8. Indicate whether appellant was granted leave to proceed in forma pauperis,
- 22 and the date of entry of the district court order granting such leave:

23 An Order to Proceed in Forma Pauperis was filed on 03/15/19.

- 24 9. Indicate the date the proceedings commenced in the district court (e.g., date
- complaint, indictment, information, or petition was filed):

A Civil Rights Complaint Pursuant to 42 U.S.C. §1983 was filed on
03/15/19.

10. Provide a brief description of the nature of the action and result in the
- district court, including the type of judgment or order being appealed and
- the relief granted by the district court:

Civil Rights Complaint Pursuant to 42 U.S.C. §1983 was filed on 03/15/19. Defendant's Motion to Dismiss was filed on 06/24/19. Amended Civil Rights Complaint Pursuant to 42 U.S.C. §1983 was filed on 07/23/19. Defendant's Motion to Dismiss Plaintiff's Amended Complaint was filed on 10/08/19. Notice of Appeal was filed on 11/27/19. Order Dismissing Appeal was filed on 06/25/20. Notice of Appeal was filed on 07/14/20. Order Dismissing Appeal was filed on 08/26/20. Order Re: Motion to Dismiss the Complaint was filed on 06/27/22. Notice of Appeal was filed on 08/22/22, which resulted in this instant appeal.

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:

This case has been appealed to the Supreme Court twice. First appeal was filed on 11/27/19, case caption: Bryan Phillip Bonham, Appellant vs Barbara K. Cegavske, Respondent, Supreme Court docket number 80145. Second appeal was filed on 07/14/20, case caption: Bryan Phillip Bonham, Appellant vs Barbara K. Cegavske, Respondent, Supreme Court docket number 81522.

12. Indicate whether this appeal involves child custody or visitation:
No

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:
No, an Order Re: Motion to Dismiss the Complaint was filed.

Dated this 30th day of August 2022.

/s/Adriana Ramos
Adriana Ramos
Deputy Court Clerk
P.O. Box H
Lovelock, NV. 89419
(775) 273-2410

Case Snapshot: Wed Aug 31 08:55:18 PDT 2022

Case Number: 27CV-WR3-2019-0039

Case Name: BRYAN P. BONHAM, PLAINTIFF VS. BARBARA K. CEGAVSKE, DEFENDANT

Date Filed: 03-15-2019

Disposition: Closed

Parties:

PL: BRYAN P. BONHAM

Address: High Desert State Prison, Indian Springs NV 89070

DF: BARBARA K. CEGAVSKE

Atty: Douglas Rands

NEVADA ATTORNEY GENERAL'S OFFICE

Hearings:

10-02-2020 11:00 AM Motion Hearing

Status: Held

Dockets:

08-30-2022Case Appeal Statement

08-30-2022 101.1 Case Appeal Statement

08-22-2022Notice of Appeal

08-22-2022 100.1 Notice of Appeal

07-14-2022Affidavit of Mailing

07-14-2022 99.1 Affidavit of Mailing

07-14-2022Affidavit of Mailing

07-14-2022 98.1 Affidavit of Mailing

07-14-2022Affidavit of Mailing

07-14-2022 97.1 Affidavit of Mailing

07-14-2022Affidavit of Mailing

07-14-2022 96.1 Affidavit of Mailing

06-30-2022Notice of Entry of Order

06-30-2022 94.1 Notice of Entry of Order

06-30-2022 94.1.1 Exhibit 1

06-29-2022Notice of Entry of Order

06-29-2022 93.1 Notice of Entry of Order

06-29-2022 93.1.1 Exhibit 1

06-29-2022 Notice of Entry of Order

06-29-2022 92.1 Notice of Entry of Order

06-29-2022 92.1.1 Exhibit 1

06-27-2022 Order Re: Motion to Dismiss the Complaint

06-27-2022 91.1 Order Re: Motion to Dismiss the Complaint

06-27-2022 Notice of Entry of Order

06-27-2022 90.1 Notice of Entry of Order

06-27-2022 90.1.1 Exhibit 1

06-27-2022 Amended Order Amendment to Complaint

06-27-2022 89.1 Amended Order Amendment to Complaint

06-27-2022 Order Amendment to Complaint; Plaintiff's Summary Judgment Order; Appointment of COounsel; Filings of Second Amended Complaint; Motion to Move to US District Court

06-27-2022 88.1 Order Amendment to Complaint; Plaintiff's Summary Judgment Order; Appointment of COounsel; Filings of Second Amended Complaint; Motion to Move to US District Court

06-24-2022 Order Amendment to Complaint

06-24-2022 87.1 Order Amendment to Complaint

12-13-2021 Opposition to Plaintiff's Motion to Move Case to U.S. District Court

12-13-2021 80.1 Opposition to Plaintiff's Motion to Move Case to U.S. District Court

11-30-2021 Plaintiff's Reply to Defendants Opposition to Plaintiffs Motion for Discovery and Order to Show Cause

11-30-2021 79.1 Plaintiff's Reply to Defendants Opposition to Plaintiffs Motion for Discovery and Order to Show Cause

11-30-2021 79.1.1 Exhibit 1

11-30-2021 79.1.2 Exhibit 2

11-30-2021 79.1.3 Exhibit 3

11-30-2021 79.1.4 Exhibit 4

11-30-2021 79.1.5 Exhibit 5

11-30-2021 Motion to Move Case to US District Court of Nev Due to Fact of Fed Laws Being Violated & Causing Plaintiffs Rights to be Violated

11-30-2021 78.1 Motion to Move Case to US District Court of Nev Due to Fact of Fed Laws Being Violated & Causing Plaintiffs Rights to be Violated

11-16-2021 Request for Submission

11-16-2021 75.1 Request for Submission

11-08-2021 Defendants' Opposition to Plaintiff's Motion for Discovery and Order to Show Cause as to Why Summary Judgment Should Not Be Granted

11-08-2021 74.1 Defendants' Opposition to Plaintiff's Motion for Discovery and Order to Show Cause as to Why Summary Judgment Should Not Be Granted

10-25-2021 Plaintiff's Motion for Discovery and Order to Show Cause as to Why Summary Judgment for the Plaintiff Should Not Be Granted in Camera Hearing or in Person Hearing Requested

10-25-2021 73.1 Plaintiff's Motion for Discovery and Order to Show Cause as to Why Summary Judgment for the Plaintiff Should Not Be Granted in Camera Hearing or in Person Hearing Requested

10-25-2021 73.1.1 Exhibit 1

10-25-2021 73.1.2 Exhibit 2

10-25-2021 73.1.3 Exhibit 3

10-25-2021 73.1.4 Exhibit 4

10-25-2021 73.1.5 Exhibit 5

06-10-2021 Plaintiff's Response to Defendants Opposition to Plaintiff's Motion for Default Order and Order of Fraud Upon the Court Hearing Requested

06-10-2021 71.1 Plaintiff's Response to Defendants Opposition to Plaintiff's Motion for Default Order and Order of Fraud Upon the Court Hearing Requested

05-17-2021 Opposition to Plaintiff's Motion for Default Order and Order of Fraud Upon the Court
05-17-2021 70.1 Opposition to Plaintiff's Motion for Default Order and Order of Fraud Upon the Court

05-17-2021 70.1.1 Exhibit 1

05-03-2021 Plaintiffs' Motion for Default Order & Order of Fraud Upon Court "Hearing Requeste"
05-03-2021 69.1 Plaintiffs' Motion for Default Order & Order of Fraud Upon Court "Hearing Requeste"

03-03-2021 Motion to Strike Plaintiff's Second Amended Complaint

03-03-2021 68.1 Motion to Strike Plaintiff's Second Amended Complaint

03-01-2021 Plaintiff's Response to Defendants Opposition to Plaintiffs Motion for Summary Judgment & Request for Fraud Upon the Court & Perjury

03-01-2021 67.1 Plaintiff's Response to Defendants Opposition to Plaintiffs Motion for Summary Judgment & Request for Fraud Upon the Court & Perjury

03-01-2021 67.1.1 Exhibit 1

03-01-2021 67.1.2 Exhibit 2

03-01-2021 67.1.3 Exhibit 3

03-01-2021 67.1.4 Exhibit 4

03-01-2021 67.1.5 Exhibit 5

03-01-2021 67.1.6 Exhibit 6

03-01-2021 67.1.7 Exhibit 7

03-01-2021 67.1.8 Exhibit 8

03-01-2021 67.1.9 Exhibit 9
03-01-2021 67.1.10 Exhibit 9a
03-01-2021 67.1.11 Exhibit 10

02-22-2021 Plaintiff's Second Amended Civil Rights Complaint Pursuant to 42 USC 1983 R8 USC 1342 (a) Jury Trial Demanded

02-22-2021 66.1 Plaintiff's Second Amended Civil Rights Complaint Pursuant to 42 USC 1983 R8 USC 1342 (a) Jury Trial Demanded

01-29-2021 Hearing Requested Plaintiffs Addendum in Support of Summary Judgment

01-29-2021 65.1 Hearing Requested Plaintiffs Addendum in Support of Summary Judgment

01-19-2021 Opposition to Motion for Summary Judgment

01-19-2021 64.1 Opposition to Motion for Summary Judgment

01-19-2021 64.1.1 Exhibit 1

01-11-2021 Opposition to Plaintiff's Motion for Appointment of Counsel

01-11-2021 63.1 Opposition to Plaintiff's Motion for Appointment of Counsel

01-05-2021 Hearing Requested Plaintiff Motion for Summary Judgment

01-05-2021 62.1 Hearing Requested Plaintiff Motion for Summary Judgment

01-05-2021 62.1.1 Exhibit 1

01-05-2021 62.1.2 Exhibit 2

01-05-2021 62.1.3 Exhibit 3

01-05-2021 62.1.4 Exhibit 4

01-05-2021 62.1.5 Exhibit 5

01-05-2021 62.1.6 Exhibit 6

12-28-2020 Hearing Requested Plaintiffs Exparte Motion for Appointment of Counsel and or Request for an Evidentiary Hearing

12-28-2020 61.1 Hearing Requested Plaintiffs Exparte Motion for Appointment of Counsel and or Request for an Evidentiary Hearing

11-25-2020 Plaintiffs Reply to Defendants Opposition to Plaintiffs Addendum

11-25-2020 60.1 Plaintiffs Reply to Defendants Opposition to Plaintiffs Addendum

11-04-2020 Defendant's Opposition to Plaintiff's Addendum to His 42 U.S.C. Section 1983 & Request for Inspection of Fraud Upon the Court

11-04-2020 57.1 Defendant's Opposition to Plaintiff's Addendum to His 42 U.S.C. Section 1983 & Request for Inspection of Fraud Upon the Court

10-20-2020 Plaintiffs Addendum to His 42 U.S.C. 1983 & Request for Inspection of Fraud Upon the Court

10-20-2020 56.1 Plaintiffs Addendum to His 42 U.S.C. 1983 & Request for Inspection of Fraud Upon the Court

10-20-2020 56.1.1 Exhibit One

10-20-2020 56.1.2 Exhibit Two

10-20-2020 56.1.3 Exhibit Three

09-28-2020 Order to Produce Prisoner

09-28-2020 52.1 Order to Produce Prisoner

09-22-2020 Remittitur

09-22-2020 51.1 Remittitur

09-16-2020 Order to Produce Prisoner

09-16-2020 49.1 Order to Produce Prisoner

09-10-2020 Order Directing that a Hearing be Held on the Motion to Dismiss Amended Complaint

09-10-2020 48.1 Order Directing that a Hearing be Held on the Motion to Dismiss Amended Complaint

08-28-2020 Notice of Entry of Order

08-28-2020 47.1 Notice of Entry of Order

08-26-2020 Order Dismissing Appeal

08-26-2020 46.1 Order Dismissing Appeal

07-23-2020 Request for Submission of Defendant's Motion to Dismiss

07-23-2020 44.1 Request for Submission of Defendant's Motion to Dismiss

07-21-2020 Remittitur

07-21-2020 43.1 Remittitur

07-16-2020 Case Appeal Statement

07-16-2020 39.1 Case Appeal Statement

07-14-2020 Notice of Appeal

07-14-2020 38.1 Notice of Appeal

07-01-2020 Notice of Entry - Order Dismissing Appeal

07-01-2020 37.1 Notice of Entry - Order Dismissing Appeal

06-25-2020 Order Dismissing Appeal

06-25-2020 36.1 Order Dismissing Appeal

02-21-2020 Notice to Transfer to Court of Appeals

02-21-2020 35.1 Notice to Transfer to Court of Appeals

02-06-2020 Notice of Change of Address

02-06-2020 34.1 Notice of Change of Address

01-27-2020 Order Directing that Clerk Set the Matter for Hearing on the Motion to Dismiss After Remittitur

01-27-2020 33.1 Order Directing that Clerk Set the Matter for Hearing on the Motion to Dismiss After Remittitur

12-13-2019 Order Directing Transmission of Record

12-13-2019 32.1 Order Directing Transmission of Record

12-05-2019 Receipt for Documents

12-05-2019 31.1 Receipt for Documents

11-27-2019 Case Appeal Statement

11-27-2019 30.1 Case Appeal Statement

11-27-2019 Notice of Appeal

11-27-2019 29.1 Notice of Appeal

11-14-2019 Request for Submission Defendant's Motion to Dismiss Plaintiff's Amended Complaint

11-14-2019 28.1 Request for Submission Defendant's Motion to Dismiss Plaintiff's Amended Complaint

11-14-2019 Notice of Entry of Order

11-14-2019 27.1 Notice of Entry of Order

11-12-2019 Order Setting Hearing on Defendant's Motion to Dismiss

11-12-2019 26.1 Order Setting Hearing on Defendant's Motion to Dismiss

11-04-2019 Plaintiffs Reply to Defendants Motion to Dismiss

11-04-2019 25.1 Plaintiffs Reply to Defendants Motion to Dismiss

11-04-2019 Request for Judicial Action

11-04-2019 24.1 Request for Judicial Action

10-08-2019 Defendant's Motion to Dismiss Plaintiff's Amended Complaint

10-08-2019 23.1 Defendant's Motion to Dismiss Plaintiff's Amended Complaint

10-08-2019 Request for Submission: Defendant's Motion to Dismiss

10-08-2019 22.1 Request for Submission: Defendant's Motion to Dismiss

08-21-2019 Notice of Motion

08-21-2019 21.1 Notice of Motion

08-20-2019 Motion To Request Leave to Amend to Add State of Nevada to Complaint Pursuant to Fed rule CIV.p 15

08-20-2019 20.1 Motion To Request Leave to Amend to Add State of Nevada to Complaint Pursuant to Fed rule CIV.p 15

08-20-2019 Notice of Motion Motion to Request Leave to Amend. to Add State of Nevada to Complaint Pursuant to Fed. Rule. CIV.P.15

08-20-2019 19.1 Notice of Motion Motion to Request Leave to Amend. to Add State of Nevada to Complaint Pursuant to Fed. Rule. CIV.P.15

08-20-2019 Opposition Plaintiffs Opposition Defendants Motion to Dismiss
08-20-2019 18.1 Opposition Plaintiffs Opposition Defendants Motion to Dismiss

08-20-2019 Notice of Motion Opposition to Defendants Motion to Dismiss
08-20-2019 17.1 Notice of Motion Opposition to Defendants Motion to Dismiss

08-14-2019 Notice of Substitution of Counsel Notice of Change of Deputy Attorney General
08-14-2019 16.1 Notice of Substitution of Counsel Notice of Change of Deputy Attorney General

08-13-2019 Plaintiff's Motion/Reply to Defendant's Reply
08-13-2019 15.1 Plaintiff's Motion/Reply to Defendant's Reply

07-24-2019 Request for Submission of Defendant's Motion to Dismiss
07-24-2019 14.1 Request for Submission of Defendant's Motion to Dismiss

07-23-2019 Amended Civil Rights Complaint Pursuant to 42 U.S.C. 1983
07-23-2019 13.1 Amended Civil Rights Complaint Pursuant to 42 U.S.C. 1983

07-15-2019 Reply in Support of Defendant's Motion to Dismiss
07-15-2019 12.1 Reply in Support of Defendant's Motion to Dismiss

06-24-2019 Defendants' Motion to Dismiss
06-24-2019 11.1 Defendants' Motion to Dismiss

06-19-2019 Application for Entry of Default
06-19-2019 10.1 Application for Entry of Default

06-13-2019 Application for Entry of Default
06-13-2019 8.1 Application for Entry of Default

06-10-2019 Motion to Extend Prison Copy Work ie. Legal Copy Work
06-10-2019 7.1 Motion to Extend Prison Copy Work ie. Legal Copy Work

06-10-2019 Notice of Motion
06-10-2019 6.1 Notice of Motion

05-23-2019 Summons - Cegavske
05-23-2019 5.1 Summons - Cegavske

03-15-2019 Civil Rights Complaint Pursuant to 42 U.S.C. 1983
03-15-2019 4.1 Civil Rights Complaint Pursuant to 42 U.S.C. 1983
03-15-2019 4.1.1 Exhibit 1 and 1A
03-15-2019 4.1.2 Exhibit 2

03-15-2019Order to Proceed In Forma Pauperis
03-15-2019 3.1 Order to Proceed In Forma Pauperis

03-15-2019Financial Certificates
03-15-2019 2.1 Financial Certificates

03-15-2019Application to Proceed in Forma Pauperis
03-15-2019 1.1 Application to Proceed in Forma Pauperis

1 CASE NO. 27CV-WR3-2019-0039

2 *The undersigned hereby affirms that this document*
3 *does not contain the social security number of any person.*

4
5
6 **IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF PERSHING**

8
9 BRYAN P. BONHAN,

10 Plaintiff,

11 Vs.

12 BARBARA K. CEGAVSKE,

13 Defendant.

ORDER RE: MOTION TO DISMISS
THE COMPLAINT

14
15 The Matter came before the Court on Defendant's Motion To Dismiss Complaint
16 (Filed: June 24, 2019). Defendant filed an Opposition to Motion to Dismiss (Filed: August
17 20, 2019). Defendant filed a Reply (July 15, 2019). Defendant filed a second Motion to
18 Dismiss Plaintiff's Amended Complaint (Filed: October 8, 2019). Plaintiff file an Opposition
19 (Filed: November 4, 2019). The Court grants the Motion.

20 ***Factual Background***

21 Bonham is an inmate in the custody of the Department of Corrections. He alleged in
22 his complaint that Cegavske violated the oath of her office. Complaint at 2. He alleges that
23 she is "not in possession of SB 109 from 1949 nor [SB] 2 from 1957." *Id.* The Nevada
24 Constitution requires that Cegavske maintain the legislative records. *Id.* at 3. Bonham alleges

1 that the procedure for amendment set forth in the Nevada Constitution has not been followed.
2 Id. Bonham requests damages in the amount of \$500,000.00 compensatory and \$500,000.00
3 punitive. Id. at 4. He also requests a copy of the “writ of habeas corpus in case State of
4 Nevada v. Gary Walters.” Id.

5 ***Standard***

6 A pleading is subject to certain pleading rules. One of those rules required that a
7 complaint must comply with the requirements of NRCP 8(a). NRCP 8(a) provides:
8

9 A pleading which sets forth a claim for relief [. . .] shall contain (1) a short
10 and plain statement of the claim showing that the pleader is entitled to
relief; and (2) a demand for judgment for the relief the pleader seeks.
Relief in the alternative or of several different types may be demanded.

11 NRCP 8(a). Nevada follows a notice pleading standard as to Rule 8(a) and the
12 sufficiency of the complaint. *See Crucil v. Carson City*, 95 Nev. 583, 585, 600 P.2d 216, 217
13 (1979) (“[T]he pleading of [a] conclusion, either of law or fact, is sufficient so long as the
14 pleading gives fair notice of the nature and basis of the claim.”). “Whenever it appears by
15 suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter,
16 the court shall dismiss the action.” NRCP 12(h)(3) (emphasis added). Cf. NRCP 12(b)(1)
17 (regarding motions to dismiss for “lack of jurisdiction over the subject matter”); Mainor v.
18 Nault, 120 Nev. 750, 761 n.9, 101 P.3d 308, 315 n.9 (2004) (citing Swan v. Swan, 106 Nev.
19 464, 469, 796 P.2d 221, 224 (1990)) (“Lack of subject matter jurisdiction can be raised at any
20 time during the proceedings and is not waivable.”).

21 NRCP 12(b)(5) provides that a defendant may move to dismiss a claim in any
22 pleading for “failure to state a claim upon which relief can be granted[.]” In reviewing such a
23 motion, “[a]ll factual allegations of the complaint must be accepted as true.” Simpson v.
24

1 Mars, Inc., 113 Nev. 188, 190, 929 P.2d 966, 967 (1997). “A complaint will not be dismissed
2 for failure to state a claim unless it appears beyond a doubt that plaintiff could prove no set of
3 facts which, if accepted by the trier of fact, would entitle him or her to relief.” Id.

4 ***Legal Analysis***

5 1. Failure to Serve

6
7 The State of Nevada’s waiver of sovereign immunity is governed by statute. See NRS
8 41.031; see also NRS 41.0337. In order to avail himself of the limited right of sovereign
9 immunity Plaintiff must adhere to the strictures of the statutory scheme. For example, a
10 “action must be brought in the name of the State of Nevada on relation of the particular
11 department . . . of the State whose actions are the basis for the suit.” NRS 41.031(2). Plaintiff
12 cured his original pleading by adding the State of Nevada. Another issue, failure by a
13 plaintiff to invoke a waiver of sovereign immunity deprives a court of subject matter
14 jurisdiction. See Jiminez v. State, 98 Nev. 204, 205, 644 P.2d 1023, 1024 (1982) (assuming
15 that failure to name the State of Nevada as a defendant under NRS 41.031 deprived the trial
16 court of subject matter jurisdiction). NRCP 12(b)(1) requires this Court to dismiss an action
17 in the absence of subject matter jurisdiction. See also NRCP 12(h)(3) (stating if it appears
18 “that the court lacks jurisdiction of the subject matter, the court shall dismiss the action”).

19 Furthermore, a plaintiff must accomplish personal service upon both the actual named
20 defendant as well as the Nevada Attorney General’s office. See NRS 41.031(2)(a)–(b).
21 Plaintiff failed to effectuate personal service upon Cegavske. Bonham’s failure to invoke a
22 waiver of sovereign immunity deprives the Court of subject matter jurisdiction, which
23 requires dismissal of this action under NRCP 12(b)(1). See Jiminez, 98 Nev. at 205, 644 P.2d
24

1 at 1024. Furthermore, Bonham’s failure to personally serve Secretary of State Cegavske
2 deprives the Court of personal jurisdiction. "Personal service or a legally provided substitute
3 must . . . occur in order to obtain jurisdiction over a party." C.H.A. Venture v. G.C. Wallace
4 Consulting Eng'rs, Inc., 106 Nev. 381, 384, 794 P.2d 707, 709 (1990).

5 The sovereign immunity waiver arguments apply to the extent Bonham has alleged
6 any tort claims under Nevada law. *See Craig v. Donnelly*, 135 Nev. __, __, 439
7 P.3d 413, 416–17 (Adv. Op. 6, February 28, 2019). To the extent Bonham has alleged 42
8 U.S.C. § 1983 civil rights claims, he has failed to serve the actual named Defendant,
9 Secretary of State Cegavske. He lacks personal jurisdiction over her.
10

11 Bonham deprived the Court of subject matter jurisdiction and personal
12 jurisdiction over this case by failing to comply with statutory requirements and failing to
13 personally serve Secretary of State Cegavske. On this basis, the Court hereby dismisses this
14 case in its entirety as a matter of law.
15

16 2. Failure To State A Claim Upon Which Relief Can Be Granted

17 a. No Personal Service

18 Nevada is a notice-pleading state, but to meet the bare requirements of notice
19 pleading, a plaintiff must “set forth sufficient facts to demonstrate the necessary elements of
20 a claim for relief so that the defending party has adequate notice of the nature of the claim
21 and relief sought.” Western States Constr. v. Michoff, 108 Nev. 931, 936, 840 P.2d 1220,
22 1223 (1992). Bonham alleges Secretary of State Cegavske failed to maintain or produce
23 copies of “senate bills,” which he asserts is “in violation of her oath of office[.]” *See* Compl.
24 at 2–4. However, none of Bonham’s citations to the Nevada Constitution provide a private
right of action that would allow him to sustain a cognizable claim. *See Id.*

1 The Nevada Constitution provides that the Secretary of State “shall keep a true record
2 of the Official Acts of the Legislative and Executive Departments of the Government,” but
3 does not create any claim for a private citizen to sue upon. See NEV. CONST. art. V, § 20.
4 The Nevada Supreme Court has held that a private right of action must be based upon clear
5 statutory (or constitutional) language, in the absence of any known legislative intent. See
6 Neville v. Eighth Judicial Dist. Court, 406 P.3d 499, 502–03 (Nev. 2017) (internal citation
omitted).

7 Plaintiff alleges that Ms. Cegavske was served by someone accepting service at her
8 office. Plaintiff refers the reader to the Summons on file with the Court. A review of that
9 summons has Ms. Cegavske name in the summons, but lists the address as the attorney
10 general. Ms. Cegavske does not occupy space in the Attorney General’s Office. So the Court
concludes that this is red hering.¹

11 The Court concludes dismissal would be appropriate.

12 b. No Personal Injury

13 Bonham’s citations to facts fail to set forth the necessary facts to make a claim for
14 relief. *See* Compl. at 2–4. Bonham does not allege a personal injury that would give rise to a
15 constitutional right of recovery. Rather, Bonham bootstraps his argument that he was unable
16 to obtain documents to a claim that he maintains he should be allowed to bring when no
17 statutory or other provision allows such a suit. No personal injury issued from the secretary’s
18 alleged failure to produce the documents which can be achieved through the legislative
counsel bureau. As such, the claim fails.

19 c. No Private Cause of Action Alleged

20 In order to name a suit against a party a statute or legal authority has to authorize the
21 suit. Bonham has failed to alleged any statute or other legal authority that allows the suit he
22 brings. As such the claim fails.

23
24 ¹ The Court notes that Plaintiff alleges that the AG’s Office “was
never served by anyone for this case.” The Court finds that it was.

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ORDER

The Court hereby denies the suit completely.

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**ELEVENTH JUDICIAL
DISTRICT COURT**



Eleventh Judicial District Court

Case Title: BRYAN P. BONHAM, PLAINTIFF VS. BARBARA K. CEGAVSKE,
DEFENDANT

Case Number: 27CV-WR3-2019-0039

Type: Order - Dismissal with Prejudice

It is so Ordered.

Judge Shirley

CASE NO. 27CV-WR3-2019-0039

DEPT. NO. I

Affirmation pursuant to NRS 239B.039

The undersigned affirms that this
document does not contain the
personal information of any person

**IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING**

BRYAN BONHAM,

Plaintiff,

vs.

BARBARA K. CEGAVASKE, et al.,

Defendants.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that an Order granting Defendant's Motion to Dismiss Complaint
was entered on June 27, 2022, in the above matter, a copy of which Order is attached as Exhibit 1.

DATED this 29th day of June, 2022.

AARON D. FORD
Attorney General

By: /s/ Douglas R. Rands
DOUGLAS R. RANDS, Bar No. 3572
Senior Deputy Attorney General
100 N. Carson Street
Carson City, NV 89701
(775) 684-1150
drands@ag.nv.gov

Attorneys for Defendant

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that
3 on the 29th of June 2022, I caused to be deposited for mailing a true and correct copy of the foregoing,
4 **NOTICE OF ENTRY OF ORDER** to the following:

5 Bryan Bonham, #60575
6 High Desert State Prison
7 P.O. Box 650
Indian Springs, NV 89070

8
9 /s/ Roberta W. Bibee
10 An employee of the
Office of the Attorney General
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INDEX OF EXHIBITS

1. Order Re: Motion to Dismiss The Complaint

EXHIBIT 1

Order Re: Motion to Dismiss
The Complaint

EXHIBIT 1

1 CASE NO. 27CV-WR3-2019-0039

2 *The undersigned hereby affirms that this document*
3 *does not contain the social security number of any person.*

4
5
6 **IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF PERSHING**

8
9 BRYAN P. BONHAN,

10 Plaintiff,

11 Vs.

12 BARBARA K. CEGAVSKE,

13 Defendant.

ORDER RE: MOTION TO DISMISS
THE COMPLAINT

14
15 The Matter came before the Court on Defendant's Motion To Dismiss Complaint
16 (Filed: June 24, 2019). Defendant filed an Opposition to Motion to Dismiss (Filed: August
17 20, 2019). Defendant filed a Reply (July 15, 2019). Defendant filed a second Motion to
18 Dismiss Plaintiff's Amended Complaint (Filed: October 8, 2019). Plaintiff file an Opposition
19 (Filed: November 4, 2019). The Court grants the Motion.

20 ***Factual Background***

21 Bonham is an inmate in the custody of the Department of Corrections. He alleged in
22 his complaint that Cegavske violated the oath of her office. Complaint at 2. He alleges that
23 she is "not in possession of SB 109 from 1949 nor [SB] 2 from 1957." *Id.* The Nevada
24 Constitution requires that Cegavske maintain the legislative records. *Id.* at 3. Bonham alleges

1 that the procedure for amendment set forth in the Nevada Constitution has not been followed.
2 Id. Bonham requests damages in the amount of \$500,000.00 compensatory and \$500,000.00
3 punitive. Id. at 4. He also requests a copy of the “writ of habeas corpus in case State of
4 Nevada v. Gary Walters.” Id.

5 ***Standard***

6 A pleading is subject to certain pleading rules. One of those rules required that a
7 complaint must comply with the requirements of NRCP 8(a). NRCP 8(a) provides:
8

9 A pleading which sets forth a claim for relief [. . .] shall contain (1) a short
10 and plain statement of the claim showing that the pleader is entitled to
relief; and (2) a demand for judgment for the relief the pleader seeks.
Relief in the alternative or of several different types may be demanded.

11 NRCP 8(a). Nevada follows a notice pleading standard as to Rule 8(a) and the
12 sufficiency of the complaint. See Crucil v. Carson City, 95 Nev. 583, 585, 600 P.2d 216, 217
13 (1979) (“[T]he pleading of [a] conclusion, either of law or fact, is sufficient so long as the
14 pleading gives fair notice of the nature and basis of the claim.”). “Whenever it appears by
15 suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter,
16 the court shall dismiss the action.” NRCP 12(h)(3) (emphasis added). Cf. NRCP 12(b)(1)
17 (regarding motions to dismiss for “lack of jurisdiction over the subject matter”); Mainor v.
18 Nault, 120 Nev. 750, 761 n.9, 101 P.3d 308, 315 n.9 (2004) (citing Swan v. Swan, 106 Nev.
19 464, 469, 796 P.2d 221, 224 (1990)) (“Lack of subject matter jurisdiction can be raised at any
20 time during the proceedings and is not waivable.”).

21 NRCP 12(b)(5) provides that a defendant may move to dismiss a claim in any
22 pleading for “failure to state a claim upon which relief can be granted[.]” In reviewing such a
23 motion, “[a]ll factual allegations of the complaint must be accepted as true.” Simpson v.
24

1 Mars, Inc., 113 Nev. 188, 190, 929 P.2d 966, 967 (1997). “A complaint will not be dismissed
2 for failure to state a claim unless it appears beyond a doubt that plaintiff could prove no set of
3 facts which, if accepted by the trier of fact, would entitle him or her to relief.” Id.

4 ***Legal Analysis***

5 1. Failure to Serve

6
7 The State of Nevada’s waiver of sovereign immunity is governed by statute. See NRS
8 41.031; see also NRS 41.0337. In order to avail himself of the limited right of sovereign
9 immunity Plaintiff must adhere to the strictures of the statutory scheme. For example, a
10 “action must be brought in the name of the State of Nevada on relation of the particular
11 department . . . of the State whose actions are the basis for the suit.” NRS 41.031(2). Plaintiff
12 cured his original pleading by adding the State of Nevada. Another issue, failure by a
13 plaintiff to invoke a waiver of sovereign immunity deprives a court of subject matter
14 jurisdiction. See Jiminez v. State, 98 Nev. 204, 205, 644 P.2d 1023, 1024 (1982) (assuming
15 that failure to name the State of Nevada as a defendant under NRS 41.031 deprived the trial
16 court of subject matter jurisdiction). NRCP 12(b)(1) requires this Court to dismiss an action
17 in the absence of subject matter jurisdiction. See also NRCP 12(h)(3) (stating if it appears
18 “that the court lacks jurisdiction of the subject matter, the court shall dismiss the action”).

19 Furthermore, a plaintiff must accomplish personal service upon both the actual named
20 defendant as well as the Nevada Attorney General’s office. See NRS 41.031(2)(a)–(b).

21 Plaintiff failed to effectuate personal service upon Cegavske. Bonham’s failure to invoke a
22 waiver of sovereign immunity deprives the Court of subject matter jurisdiction, which
23 requires dismissal of this action under NRCP 12(b)(1). See Jiminez, 98 Nev. at 205, 644 P.2d
24

1 at 1024. Furthermore, Bonham's failure to personally serve Secretary of State Cegavske
2 deprives the Court of personal jurisdiction. "Personal service or a legally provided substitute
3 must . . . occur in order to obtain jurisdiction over a party." C.H.A. Venture v. G.C. Wallace
4 Consulting Eng'rs, Inc., 106 Nev. 381, 384, 794 P.2d 707, 709 (1990).

5 The sovereign immunity waiver arguments apply to the extent Bonham has alleged
6 any tort claims under Nevada law. See Craig v. Donnelly, 135 Nev. ___, ___, 439
7 P.3d 413, 416–17 (Adv. Op. 6, February 28, 2019). To the extent Bonham has alleged 42
8 U.S.C. § 1983 civil rights claims, he has failed to serve the actual named Defendant,
9 Secretary of State Cegavske. He lacks personal jurisdiction over her.
10

11 Bonham deprived the Court of subject matter jurisdiction and personal
12 jurisdiction over this case by failing to comply with statutory requirements and failing to
13 personally serve Secretary of State Cegavske. On this basis, the Court hereby dismisses this
14 case in its entirety as a matter of law.
15

16 2. Failure To State A Claim Upon Which Relief Can Be Granted

17 a. No Personal Service

18 Nevada is a notice-pleading state, but to meet the bare requirements of notice
19 pleading, a plaintiff must "set forth sufficient facts to demonstrate the necessary elements of
20 a claim for relief so that the defending party has adequate notice of the nature of the claim
21 and relief sought." Western States Constr. v. Michoff, 108 Nev. 931, 936, 840 P.2d 1220,
22 1223 (1992). Bonham alleges Secretary of State Cegavske failed to maintain or produce
23 copies of "senate bills," which he asserts is "in violation of her oath of office[.]" See Compl.
24 at 2–4. However, none of Bonham's citations to the Nevada Constitution provide a private
right of action that would allow him to sustain a cognizable claim. See Id.

1 The Nevada Constitution provides that the Secretary of State “shall keep a true record
2 of the Official Acts of the Legislative and Executive Departments of the Government,” but
3 does not create any claim for a private citizen to sue upon. See NEV. CONST. art. V, § 20.
4 The Nevada Supreme Court has held that a private right of action must be based upon clear
5 statutory (or constitutional) language, in the absence of any known legislative intent. See
6 Neville v. Eighth Judicial Dist. Court, 406 P.3d 499, 502–03 (Nev. 2017) (internal citation
omitted).

7 Plaintiff alleges that Ms. Cegavske was served by someone accepting service at her
8 office. Plaintiff refers the reader to the Summons on file with the Court. A review of that
9 summons has Ms. Cegavske name in the summons, but lists the address as the attorney
10 general. Ms. Cegavske does not occupy space in the Attorney General’s Office. So the Court
concludes that this is red hering.¹

11 The Court concludes dismissal would be appropriate.

12 b. No Personal Injury

13 Bonham’s citations to facts fail to set forth the necessary facts to make a claim for
14 relief. *See* Compl. at 2–4. Bonham does not allege a personal injury that would give rise to a
15 constitutional right of recovery. Rather, Bonham bootstraps his argument that he was unable
16 to obtain documents to a claim that he maintains he should be allowed to bring when no
17 statutory or other provision allows such a suit. No personal injury issued from the secretary’s
18 alleged failure to produce the documents which can be achieved through the legislative
counsel bureau. As such, the claim fails.

19 c. No Private Cause of Action Alleged

20 In order to name a suit against a party a statute or legal authority has to authorize the
21 suit. Bonham has failed to alleged any statute or other legal authority that allows the suit he
22 brings. As such the claim fails.

23 ¹ The Court notes that Plaintiff alleges that the AG’s Office “was
24 never served by anyone for this case.” The Court finds that it was.

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ORDER

The Court hereby denies the suit completely.

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**ELEVENTH JUDICIAL
DISTRICT COURT**



Eleventh Judicial District Court

Case Title: BRYAN P. BONHAM, PLAINTIFF VS. BARBARA K. CEGAVSKE,
DEFENDANT
Case Number: 27CV-WR3-2019-0039
Type: Order - Dismissal with Prejudice

It is so Ordered.

Judge Shirley

1 COURT MINUTES. NOT AN OFFICIAL TRANSCRIPT OF ANY PROCEEDING.

2 * * * *

3 This document does not contain any
4 social security numbers.

5 **IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF**
6 **NEVADA, IN AND FOR THE COUNTY OF PERSHING**

7 Bryan P. Bonham

8 Plaintiff/Petitioner,

9 vs.

10 Barbara K. Cegavske.

11 Defendant/Respondent.

Case No. 27CV-WR3-2019-0039

WEDNESDAY, October 02, 2020

11:15 a.m.

12 PRESENT: Honorable Jim C. Shirley, presiding District Judge
13 Candice Boyce, Court Clerk

14 **MOTION HEARING:**

15 Plaintiff, Brian Bonham, appearing telephonically and representing himself.

16 Douglas Rands, Senior Deputy Attorney General, appearing on behalf of the Defendants.

17 All parties give 2 party consent to the hearing being telephonic and to being reported.

18 The Court reminds all parties the rules of for telephonic hearings.

19 Mr. Bonham gave argument on his Motion to Amend.

20 Mr. Rands gave argument against Mr. Bonham's Motion.

21 The Court Canvassed Mr. Rands

22 The Court Canvassed Mr. Bonham

23 The Court covers the issues that the Defense raised and Mr. Bohnam gave explanation for
24 all issues covered.

25 The Court stated that he will take the matter under advisement.

26 Court is in recess 11:45 a.m.

Case No. 27CV-WR3-2019-0039

Pursuant to NRS 239B.030, the undersigned affirms that this Document does not contain the social security numbers.

IN THE ELEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF PERSHING

BRYAN P. BONHAM,

Plaintiff,

vs.

BARBARA K. CEGAVSKE,

Defendant.

CERTIFICATE

State of Nevada)
 : ss.
County of Pershing)

I, ADRIANA RAMOS, Deputy Court Clerk, do hereby certify that the following are true and correct copies of the original documents in the above-entitled case, which was appealed to the Supreme Court.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Lovelock, Nevada, this 31st day of August 2022.

KATE MARTIN
Eleventh Judicial District Court Clerk

By: Adriana Ramos
Deputy Clerk

**ELEVENTH JUDICIAL
DISTRICT COURT**

Jim C. Shirley
District Judge
Tel. (775) 273-2410
Fax (775) 273-4921



Kate Martin
Court Administrator
Tel. (775) 273-2410
kmartin@11thjudicialdistrictcourt.net

August 31, 2022

Elizabeth Brown
Supreme Court Clerk
201 South Carson Street
Carson City, NV 89701-4702

Re: Notice of Appeal / 27CV-WR3-2019-0039
Bryan P. Bonham vs Barbara K. Cegavske

Enclosed, please find the following documents as it relates to an Appeal filed on August 22, 2022:

- Certification
- Exhibit List (if applicable)
- Minutes (if applicable)
- Notice of Entry of Order (with Order)
- Judgement / Order
- District Court Docket
- Case Appeal Statement
- Notice of Appeal

Should you have any questions or require additional information, please do not hesitate to contact the Court.

KATE MARTIN
Eleventh Judicial District Court Clerk

By: Adriana Ramirez
Deputy Clerk

/ar
Encl.

☒ **Pershing County**
P.O. Box H
Lovelock, NV 89419
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