

[REDACTED]

tain the verdict. See *Rogers v. Public Service Co.*, 121 N.H. 956, 959, 437 A.2d 263, 265-66 (1981).

Affirmed.

KING, C.J., did not sit.

[REDACTED]

Merrimack
No. 81-381

EDWARD J. BENNETT

v.

THE STATE OF NEW HAMPSHIRE

March 10, 1982

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Sheehan, Phinney, Bass & Green P.A., of Manchester (*James E. Higgins* on the brief and orally), for the plaintiff.

Gregory H. Smith, attorney general (*James E. Townsend*, assistant attorney general, & *a.* on the brief, and *Peter T. Foley*, attorney, orally), for the State.

MEMORANDUM OPINION

On July 21, 1975, the Governor and Council began proceedings which, on October 21, 1975, culminated in the removal of the plaintiff, Edward J. Bennett, from his unclassified State government position as director of the division of economic development. His appeal to this court was unsuccessful, and the United States

Supreme Court refused to hear the case for want of a substantial federal question. See *Bennett v. Thomson*, 116 N.H. 453, 363 A.2d 187 (1976), *appeal dismissed*, 429 U.S. 1082 (1977).

On May 15, 1981, the plaintiff filed a petition for declaratory judgment in superior court seeking a ruling that the State be required to reimburse him for attorney's fees incurred in his unsuccessful attempt to avoid dismissal. Upon the recommendation of a Master (*Perkins, J., Retired*), the Superior Court (*Johnson, J.*) granted the State's motion to dismiss. This appeal followed.

The plaintiff did not request attorney's fees during any of the legal proceedings concerning his removal. It was not until March 1980, three years and one month after the United States Supreme Court dismissed his appeal, that the plaintiff's counsel wrote the attorney general requesting reimbursement. The plaintiff then waited until May 15, 1981, before filing his action in superior court. Thus, over four years elapsed between the time the United States Supreme Court dismissed his appeal and the time he filed his petition for attorney's fees.

■ ■ This court recently held that, absent a statute or court rule governing the time in which attorney's fees must be requested, a request for attorney's fees is proper only if made within a reasonable time. *Royer v. Adams*, 121 N.H. 1024, 1028, 437 A.2d 316, 319 (1981); *Silva v. Botsch*, 121 N.H. 1041, 1044, 437 A.2d 313, 315 (1981). Three years and one month is clearly not a "reasonable" time. In light of this decision, we need not reach the other issues raised by the briefs.

Affirmed.

BROCK, J., did not sit.