Speaker's Office <speaker@guamlegislature.org>

MC Fwd: Civil Service Commission Judgments - April 25, 2019

1 message

Speaker's Office <speaker@guamlegislature.org> Fri, Apr 26, 2019 at 4:32 PM
To: Clerks Office <clerks@guamlegislature.org>
Cc: Rennae Meno <rennae@guamlegislature.org>
Bcc: Tina Muna Barnes <tinamunabarnes@gmail.com>

04-26-19	12:47 PM	04-25-19	Judgments and orders executed by the Civil Service Commission in its meeting of April 25, 2019.*	Civil Service Commission-Office of the Legislative Secretary -	35GL-19-0425

Sinsenru yan Minagåhet,

Office of the Speaker • Tina Rose Muña Barnes

Committee on Public Accountability, Human Resources & the Guam Buildup

35th Guam Legislature
I Mina'trentai Singko na Liheslaturan Guåhan

Guam Congress Building | 163 Chalan Santo Papa | Hagatna, GU 96910

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speaker@guamlegislature.org

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Gumai pribilehu yan konfedensia este siha na mensåhi. Solo espesiåtmente para hågu ma entensioña pat ma aturisa para unrisibi. Sen prubidu kumu ti un ma aturisa para manribisa, na'setbe, pat mandespåtcha. Yanggen lachi rinisibu-mu nu este na mensåhi , put fabot ago' guatu gi I numa'huyong gi as speaker@guamlegislature.org yan despues destrosa todu siha I kopian mensåhi. Si Yu'os ma'åse'.

---------- Forwarded message ---------
From: Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>
Date: Fri, Apr 26, 2019 at 12:47 PM
Subject: Fwd: Civil Service Commission Judgments - April 25, 2019
To: Speaker's Office <speaker@guamlegislature.org>
Cc: Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>

Good afternoon Speaker:

Forwarding for your reference.

Regards.

Evelyn Claros
Administrative Officer

35GL-19-0425
Speaker Tina Rose Muña Barnes

APR 26 2019
Time 4:00 ( )AM (X)PM
Received By: Matthew

2019 APR 26 PM 4:00

---------- Forwarded message ---------
From: Susan Corbin <susan.corbin@csc.guam.gov>
Date: Fri, Apr 26, 2019 at 11:25 AM
Subject: Civil Service Commission Judgments - April 25, 2019
To: Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>

Hafa Adai Senator Shelton: Please find attached the judgments executed by the Civil Service Commission in its meeting of April 25, 2019. This is mandated under 4 GCA, Section 4403. Thank you.

Si Yu'os Ma'åsé
Susan Corbin
Legal Secretary
Civil Service Commission
Tel: 647-1855

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Name

Title

Office of the People • Senator Amanda L. Shelton

Legislative Secretary & Chairwoman of the Committee

on Higher Education and the Advancement of Women,

Youth and Senior Citizens

35th Guam Legislature
I Mina'trentai Singko na Liheslaturan Guåhan

Tel: (671) 969-2574

Email: officeofsenatorshelton@guamlegislature.org

3 attachments

- **Daniel Santos vs. GIAA.Order After Hearing.CSC18-NOPA01 and 18-PA05.April-25-2019.pdf** 46K
- **Josette Javelosa vs. Port Authority of Guam; CSC13-AA01T SP.April-25-2019.pdf** 34K
- **Taling Taitano vs. DOE; CSC12-MH-01.Decision and Judgment.April-25-2019.pdf** 112K

0425

BEFORE THE
GUAM CIVIL SERVICE COMMISSION

BOARD OF COMMISSIONERS

IN THE MATTER OF:

DANIEL T.C. SANTOS,

Employee,

vs.

GUAM INTERNATIONAL AIRPORT AUTHORITY,

Management.

PERSONNEL ACTION REVIEW
CASE NO.: 18-NOPA01

POST AUDIT REVIEW
CASE NO.: 18-PA05

ORDER AFTER HEARING

This matter came before the Civil Service Commission (the "Commission") on April 4, 2019, for a hearing on Daniel T.C. Santos's ("Employee's") Motion for Reconsideration. Present for Antonio B. Won Pat International Airport Authority, Guam ("GIAA") was Executive Manager Thomas C. Ada; Airport Services Manager Jean M. Arriola; and Personnel Specialist IV, Virginia Molo; along with GIAA legal counsel, Genevieve P. Rapadas of Calvo Fisher & Jacob LLP. Present with the Employee was his legal counsel, Daniel S. Somerfleck of Somerfleck & Associates, PLLC.

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Having reviewed and considered Employee's motion and GIAA's Opposition to the Motion, the Commission voted 4-0 to deny Employee's motion.

SO ORDERED THIS 25th day of April 2019.

LUIS R. BAZA
Chairperson

LOURDES HONGYEE
Vice-Chairperson

PRISCILLA T. TUNCAP
Commissioner

JOHN SMITH
Commissioner

(Absent)
CATHERINE GAYLE
Commissioner

BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS

IN THE MATTER OF: JOSETTE JAVELOSA, Employee, vs. PORT AUTHORITY OF GUAM, Management.	ADVERSE ACTION APPEAL CASE NO.: 13-AA01T SP ORDER APPOINTING ADMINISTRATIVE LAW JUDGE

This matter came on to be discussed by the Commission on April 4, 2019, regarding the remand of the case back to the Commission. By a vote of 4-0 the Commission voted to appoint Administrative Counsel, Eric D. Miller to serve as Administrative Law Judge on this matter.

SO ADJUDGED THIS 25th day of April, 2019.

LUIS R. BAZA
Chairperson

LOURDES HONGYEE
Vice-Chairperson

PRISCILLA T. TUNCAP
Commissioner

JOHN SMITH
Commissioner

(Absent)
CATHERINE GAYLE
Commissioner

BEFORE THE
GUAM CIVIL SERVICE COMMISSION

BOARD OF COMMISSIONERS

IN THE MATTER OF:

TALING TAITANO,

Employee,

vs.

DEPARTMENT OF EDUCATION,

Management.

MINI-HATCH ACT COMPLAINT
CASE NO.: 12-MH-01

DECISION AND JUDGMENT

INTRODUCTION

The above-captioned matter came before the Guam Civil Service Commission (the "CSC") during the April 2, 2019, 2nd Reading of Staff Assessment Report dated May 17, 2012, regarding a Mini-Hatch Complaint against Employee Taling Taitano. After due deliberation without oral argument, the CSC found that it did not have jurisdiction over the Mini-Hatch Act Complaint, and voted unanimously in favor of Employee; thereby dismissing the Mini-Hatch Act Complaint against Employee.

II.

JURISDICTION

The jurisdiction of the Guam Civil Service Commission is based upon the Organic Act of Guam, Title 4 Guam Code Annotated ("GCA") §§ 4401, *et seq.*, and relevant GDOE Personnel Rules and Regulations.

III.

RELEVANT FACTS

On May 24, 2012, the CSC held a session to hear its Staff Assessment Report dated May 17, 2012, on a Mini-Hatch Act Complaint "Notice of Prohibited Political Activity" filed against Employee Taling Taitano, who was Acting Superintendent of Education at that time.

The May 17, 2012, Staff Assessment Report addressed a certain request; specifically: "The staff recently received two inquiries regarding Ms. Taling Taitano, Acting Superintendent of Education and who was also elected as a Democratic Party of Guam official."

In addition, the May 17, 2012, Staff Assessment Report reviewed certain authority, (specifically, 4 GCA §§ 5101 and 5105), and other related laws (specifically, 4 GCA §§ 4102 and 4403).

Moreover, the May 17, 2012 Staff Assessment Report stated the issues as the following:

1. Does the Civil Service Commission have jurisdiction to conduct Investigations on Prohibited Political Activity also known as the Mini-Hatch Act?

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2. Is Ms. Taling Taitano subject to the provisions of Title 4 G.C.A. § 5103 of the Mini Hatch Act?

Furthermore, the May 17, 2012 Staff Assessment Report stated its conclusion as the following:

1. ***In regard to Issue #1:*** There may be a jurisdiction concern pursuant to 4 G.C.A. §4403 (h) "The jurisdiction of the commission shall not extend to ... any position or person, appeal or proceeding of whatever kind or description if the position is denominated "unclassified" in this title ... [cited in part]", amended by PL 26-121, (Aug 2002). Please note 4.G.C.A. §5101 was effectuated in 1974. Ms. Taling Taitano is an unclassified employee.

2. ***In regard to Issue #2:*** The staff does not have sufficient information to make this determination and recommends an investigation to be authorized to review this matter more thoroughly.

The CSC issued an Order After Hearing dated March 21, 2019, stating that a hearing on this matter had been conducted on May 24, 2012, and that the Commissioners voted 6-0 to request an Attorney General's opinion on the jurisdiction question presented, and to hold off on further investigation of the matter until the Commission receives a reply from the Attorney General's Office.

The CSC forwarded a "Request for Opinion Regarding Jurisdiction of the Civil Service Commission over Political Activity ("Mini-Hatch") Complaints Involving Unclassified Employees" to Attorney General of Guam, Leonardo Rapadas, dated May 24, 2012.

No response was provided.

The CSC conducted a second reading of the May 17, 2012, Staff Assessment Report recently on April 4, 2019.

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IV.

ANALYSIS

Title 4 GCA § 4403(h) states:

> The jurisdiction of the Commission shall not extend to academic personnel of the Guam Community College and the University of Guam, except upon mutual consent by the governing board of the respective institution and the Commission; ***nor to any position or person, appeal or proceeding of whatever kind or description if the position is denominated "unclassified" in this Title,*** except to the extent explicitly permitted in this Section.

At the time that the CSC received the Mini-Hatch Act Complaint in this case, Employee Taling Taitano was an unclassified employee.

After due deliberation without oral argument, the CSC determined that it did not have jurisdiction over Employee because she was an unclassified employee at the time that the Mini-Hatch Act Complaint was received, and the CSC voted unanimously in favor of Employee; thereby dismissing the Mini-Hatch Act Complaint against Employee.

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V.

CONCLUSION

Accordingly, the CSC after due deliberation determined, by unanimous vote of 4 to 0, that it did not have jurisdiction over Employee regarding the Mini-Hatch Act Complaint. The Commission therefore finds for Employee Taling Taitano, and the Mini-Hatch Act Complaint against Employee is hereby dismissed.

IT IS SO ADJUDGED on this 25th **day of** April, **2019.**

LUIS R. BAZA
Chairperson

LOURDES HONGYEE
Vice-Chairperson

PRISCILLA TUNCAP
Commissioner

JOHN SMITH
Commissioner

(Absent)
CATHERINE GAYLE
Commissioner