Speaker's Office <speaker@guamlegislature.org>

M&C Fwd: Civil Service Commission Judgments of February 11, 2020

1 message

Speaker's Office <speaker@guamlegislature.org> Fri, Feb 14, 2020 at 2:04 PM
To: Clerks Office <clerks@guamlegislature.org>
Cc: Rennae Meno <rennae@guamlegislature.org>
Bcc: Tina Muna Barnes <tinamunabarnes@gmail.com>

02-14-20	1:18 PM	02-11-20	Civil Service Commission Judgments of February 11, 2020.*	Civil Service Commission	35GL-20-1545

Sinseru yan Minagâhet,

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
T: (671) 477-2520/1
speaker@guamlegislature.org

35GL-20-1545
Speaker Tina Rose Muña Barnes

FEB 14 2020
Time 1:18 ( )AM (PM
Received By: Matt

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

---------- Forwarded message ---------
From: **Office of Senator Shelton Guam Legislature** <officeofsenatorshelton@guamlegislature.org>
Date: Fri, Feb 14, 2020 at 1:18 PM
Subject: Fwd: Civil Service Commission Judgments of February 11, 2020
To: Speaker's Office <speaker@guamlegislature.org>

Good afternoon Speaker Barnes:

Forwarding for your information.

Regards.

Evelyn Claros

2020 FEB 14 PM 2:17

---------- Forwarded message ---------
From: **Susan Corbin** <susan.corbin@csc.guam.gov>
Date: Fri, Feb 14, 2020 at 10:31 AM
Subject: Civil Service Commission Judgments of February 11, 2020
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 February 11, 2020. This is mandated under 4 GCA, Section 4403. Thank you.

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

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Si Yu'os Ma'âse,

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

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Civil Service Commission Judgments (Executed 2-11-20).pdf
159K

1545

BEFORE THE
GUAM CIVIL SERVICE COMMISSION

BOARD OF COMMISSIONERS

IN THE MATTER OF:

LYNDA B. AGUON,

Employee,

vs.

DEPARTMENT OF PARKS AND RECREATION,

Management.

ADVERSE ACTION
CASE NO.: 19-AA02T

DECISION AND JUDGMENT

INTRODUCTION

The above captioned matter came before the Guam Civil Service Commission (CSC) January 14, 2020, to review the recommendations of the Administrative Law Judge (ALJ), Eric D. Miller. Employee, Lynda B. Aguon hereinafter ("Employee") was employed by the Department of Parks and Recreation as the Guam Historic Preservation Officer for the Guam Historic Resources Division. On June 18, 2019, Employee was served with Final Notice of Adverse Action (FNAA) alleging numerous acts of insubordination, mistreatment of staff, misuse of official vehicle, and other bad behavior.

JURISDICTION

The jurisdiction of the Guam Civil Service Commission is based upon the Organic Act of Guam, and 4 GCA §4403 (b).

BURDEN OF PROOF

Following the ruling in *Port Authority of Guam v. Josette J. Javelosa*, 2018 Guam 9, the Commission must make an initial determination as to the burden of proof on Management. By Decision and Order dated October 3, 2019 the Commission found that Management's burden is the clear and convincing evidence standard because the factual allegations do not correspond to statutory prohibitions in the criminal code.

FINDING OF FACT AND CONCLUSION OF LAW

The ALJ found by clear and convincing evidence that Employee was insubordinate when she advised her Director that he could not force her to comply with his order to review and address emails from Administrative Assistant, Christine Olkeriil. The ALJ also found by clear and convincing evidence that Employee was insubordinate when she violated a written order not to discuss the investigation of complaints about her with other employees while the investigation was in progress. Employee admitted to talking to employees, Michelle Yamasta and Barbara Lujan, during the investigation. The ALJ found that none of the other allegations would justify termination. The ALJ recommended that the adverse action be affirmed.

Present at the hearing for Management were Assistant Attorney General Donna Lawrence, Assistant Attorney General Matthew Wolff, and Acting Director Richard Ybanez. Present for Employee was John R. Bell, Esquire, and Employee. Commissioners present at the hearing were Chairman Juan K. Calvo, Commissioner Priscilla T. Tuncap, Commissioner Emilia F. Rice, and Commissioner Anthony P. Benavente.

At the hearing, ALJ Miller read his written decision into the record. 4 GCA §4405 (c)(2) provides that the Commission will have the authority to accept, modify, or reject the ALJ's decision in whole or in part.

Chairman Calvo asked if the Commissioners wished to reject the ALJ's recommendations. The vote was 4 to 0 opposing rejection.

The vote was 3 to 1 to modify the recommendation. (Commissioner Benavente dissenting). The Commission voted 3 to 1 to accept the recommendation (Chairman Calvo dissenting). Management has the burden of proof 4 GCA §4407. The affirmative vote of four (4) members shall be required for any action of the Commission 4 GCA§4402. In this case Management failed to get the affirmative vote of four (4) Commissioners to affirm the termination. Employee prevails. The adverse action is revoked. The Employee shall be reinstated immediately until such time as this decision is overturned by judicial review. 4 GCA §4406 (g). Employee is awarded back pay, reasonable attorney fees and costs.

IT IS SO ADJUDGED on this 11th **day of** February**, 2020.**

JUAN K. CALVO
Chairman

JOHN SMITH
Vice Chairman

PRISCILLA T. TUNCAP
Commissioner

EMILIA F. RICE
Commissioner

ANTHONY P. BENAVENTE
Commissioner

BEFORE THE
GUAM CIVIL SERVICE COMMISSION

BOARD OF COMMISSIONERS

IN THE MATTER OF:

ROMEO LOZANO HADAP III,

Employee,

vs.

GUAM POLICE DEPARTMENT,

Management.

WHISTLEBLOWER
CASE NO.: 19-WB02

ORDER AFTER HEARING

This matter came before the Civil Service Commission on January 28, 2020, for the presentation of a Staff Assessment Report on the Public Employee Protection, aka Whistleblower Complaint, filed by Romeo Lozano Hadap III, Police Officer Trainee with the Guam Police Department (GPD). The complaint was filed December 10, 2019. Vickilylnn C. Sablan, Personnel Management Analyst III, and Roland Fejarang, Personnel Management Administrator presented the Staff Assessment Report. Commissioners present were Chairman Juan K. Calvo, Vice Chairman John Smith, Commissioner Priscilla T. Tuncap, and Commissioner Anthony P. Benavente.

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The Commissioners voted 4 to 0 to accept the staff recommendation and proceed with an investigation of the Complaint.

SO ORDERED THIS 11th **day of** February, **2020.**

JUAN K. CALVO
Chairman

JOHN SMITH
Vice Chairman

PRISCILLA T. TUNCAP
Commissioner

EMILIA F. RICE
Commissioner

ANTHONY P. BENAVENTE
Commissioner

BEFORE THE
GUAM CIVIL SERVICE COMMISSION

BOARD OF COMMISSIONERS

IN THE MATTER OF:

EDWARD GARRIDO,

Employee,

vs.

GUAM POWER AUTHORITY,

Management.

POST AUDIT
CASE NO.: 20-PA01

ORDER AFTER HEARING

This matter came before the Civil Service Commission on January 28, 2020, for the presentation of an initial Post Audit Staff Assessment Report. Employee Edward C. Garrido (Employee) Electrician II with the Guam Power Authority (GPA) requested for the Civil Service Commission (CSC) to conduct a Post Audit investigation on the selection of 3 (three) individuals outside of the GPA for the position of Line Electrician II who have no knowledge of the authority, and no knowledge of the system, and who had scored a higher average than Mr. Garrido. Maria P. Masnayon, Personnel Analyst III, presented the Post Audit Staff Assessment Report, along with Roland Fejarang, Personnel Management Administrator.

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Commissioners present were Chairman Juan Calvo, Vice Chairman John Smith, Commissioner Priscilla T. Tuncap, and Commissioner Anthony P. Benavente.

The Commissioners voted 4 to 0 to proceed with an investigation.

SO ORDERED THIS 11th **day of** February, **2020.**

JUAN K. CALVO
Chairman

JOHN SMITH
Vice Chairman

PRISCILLA T. TUNCAP
Commissioner

EMILIA F. RICE
Commissioner

ANTHONY P. BENAVENTE
Commissioner