I. INTRODUCTION

This matter came before the Commission May 9, 2019 on Management’s Motion to Dismiss. Commissioners present were Luis R. Baza, Priscilla T. Tuncap, John Smith, Catherine Gayle, Julie L. Quinata, and John K. Calvo. Also present were Daniel Del Priore representing the Employees, and Ronald Taitano, representing the Guam Police Department (GPD).

Management moved to dismiss the Grievance on the basis that the Civil Service Commission lacked jurisdiction over the matter because Employees’ complaints relate to
the rating of applicants, and therefore, is excluded as a Grievance under Chapter 12 of Department Administration Rules and Regulations (DOA PR&R).

II. JURISDICTION

The jurisdiction of the Guam Civil Service Commission is based upon the Organic Act of Guam, Title 4 Guam Code Annotated (GCA) § 4403 and relevant DOA PR&R.

III. RELEVANT FACTS

Employees complained that they were not given an opportunity to compete for a new Lieutenant, and Police Officer II positions. When the recruitment of USERRA became effective the applicants (USERRA) were on active duty with the military, and were therefore, protected by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). The law requires that a service member receive a missed promotion upon reemployment if there is a reasonable certainty that the promotion would have been granted. The application of USERRA in this case was applied to the previous rating which granted them rights to the promotion.

IV. ANALYSIS

The basis of Employees’ grievance is that the application of USERRA in this case placed them too low in the examination ratings to qualify for an interview. Department of Administration, Personnel Rules and Regulations, Section 12.301, C., specifically excludes actions based on “examination ratings” from being defined as a grievance. Employees with complaints regarding examination ratings are not categorically eligible for access to the grievance procedures.

DECISION AND ORDER

Cecil Sulla, Christopher Dawson, Anthony Chaco, Anthony Demapan
vs. Guam Police Department
Grievance Appeal Cases No. 19-GRE02; 19-GRE03; 19-GRE04; 19-GRE05
IV. CONCLUSION

Accordingly, the Commission, after due deliberation, determined by a vote of 5 to 1 (Commissioner Tuncap dissenting), that it did not have jurisdiction over the Employees’ grievance. Motion to dismiss is granted.

SO ADJUDGED THIS 18th day of 2019.

LUIS R. BAZA
Chairperson

PRISCILLA T. TUNCAP
Commissioner

CATHARINE GAYLE
Commissioner

JUAN K. CALVO
Vice-Chairperson

JOHN SMITH
Commissioner

DECISION AND ORDER

Cecil Sulla, Christopher Dawson, Anthony Chaco, Anthony Demapan
vs. Guam Police Department
Grievance Appeal Cases No. 19-GRE02; 19-GRE03; 19-GRE04; 19-GRE05
BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS

IN THE MATTER OF:

CECIL SULLA,
CHRISTOPHER DAWSON,
ANTHONY CHACO,
ANTHONY DEMAPAN,

Employee,

vs.

GUAM POLICE DEPARTMENT,

Management.

GRIEVANCE APPEAL
CASES NO.: 19-GRE02; 19-GRE03;
19-GRE04; 19-GRE05

DECISION AND ORDER

I. INTRODUCTION

This matter came before the Commission May 9, 2019 on Management's Motion
to Dismiss. Commissioners present were Luis R. Baza, Priscilla T. Tuncap, John Smith,
Catherine Gayle, Julie L. Quinata, and John K. Calvo. Also present were Daniel Del
Priosr representing the Employees, and Ronald Taitano, representing the Guam Police
Department (GPD).

Management moved to dismiss the Grievance on the basis that the Civil Service
Commission lacked jurisdiction over the matter because Employees' complaints relate to
their supervisor.

DECISION AND ORDER

Cecil Sulla, Christopher Dawson, Anthony Chaco, Anthony Demapan
vs. Guam Police Department
Grievance Appeal Cases No. 19-GRE02; 19-GRE03; 19-GRE04; 19-GRE05

Total Pages Scanned: 3
Total Pages Confirmed: 3

<table>
<thead>
<tr>
<th>No.</th>
<th>Job</th>
<th>Remote Station</th>
<th>Start Time</th>
<th>Duration</th>
<th>Pages</th>
<th>Line</th>
<th>Mode</th>
<th>Job Type</th>
<th>Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>001</td>
<td>098</td>
<td>671-4721246</td>
<td>10:33:51 a.m. 07-19-2019 00:04:52</td>
<td>3/3</td>
<td>1</td>
<td>EC</td>
<td>HS</td>
<td>CP2400</td>
<td></td>
</tr>
</tbody>
</table>
Hafa Adai Senator Shelton: Please find attached judgments executed by the Civil Service Commission in its meeting of July 18, 2019. This is mandated under 4 GCA, Section 4403. Thank you.

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

329K