



BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS



1
2
3
4
5 **IN THE MATTER OF:**

6 **CHRISTOPHER FLORIG,**

7 **Employee,**

8 **vs.**

9 **GUAM FIRE DEPARTMENT,**

10 **Management.**

**ADVERSE ACTION APPEAL
CASE NO.: 18-AA07T**

DECISION AND ORDER

11
12 This matter came before the Commission October 10, 2019, to hear Administrative
13 Law Judge (ALJ), Eric D. Miller's recommendations as to Management's multiple
14 motions. Commissioners present were Chairman Luis R. Baza, Vice-Chairman Juan K.
15 Calvo, Commissioner Priscilla T. Tuncap, Commissioner John Smith, and Commissioner
16 Emilia F. Rice. Also present were the Employee's attorney, Edwin Torres, and
17 Management's attorney, Assistant Attorney General Matthew E. Wolff.

18 Commissioner Rice disqualified herself because she and her family have a close
19 relationship to the employee and his family. ALJ Miller read his recommendations into
20 the record.

21 //

22 //

23 **DECISION AND ORDER**

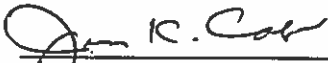
Christopher Florig vs. Guam Fire Department
Adverse Appeal Case No.: 18-AA07T


Page 1 of 2

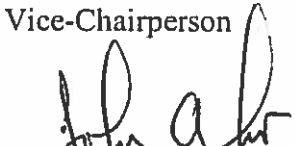
1 The Commission voted 4 to 0 (Commissioner Rice not voting) to ratify and adopt
2 the recommendations of the ALJ, a copy of which is attached hereto. Attorney Wolff
3 objected to the 10-day deadline for his office to have responded to the recommendations
4 and Chairman Baza noted the objection on the record.

5 SO ORDERED THIS 7th DAY OF November, 2019.

6 
7 LUIS R. BAZA
Chairperson


8 JUAN K. CALVO
Vice-Chairperson

9 
10 PRISCILLA T. TUNCAP
Commissioner


11 JOHN SMITH
Commissioner

12 (absent)
13 CATHERINE GAYLE
Commissioner

14 (Recused)
15 EMILIA F. RICE
Commissioner



**BEFORE THE
GUAM CIVIL SERVICE COMMISSION
ADMINISTRATIVE LAW JUDGE**



IN THE MATTER OF:

CHRISTOPHER FLORIG,

Employee,

vs.

GUAM FIRE DEPARTMENT,

Management.

**ADVERSE ACTION APPEAL
CASE NO.: 18-AA07T**

**RECOMMENDATIONS
FOLLOWING CONTINUED
MOTION HEARING
SEPTEMBER 24, 2019**

This matter came before the undersigned, sitting as a duly-appointed Administrative Law Judge pursuant to 4 GCA, §4405(c), and CSC AAR 14, to hear the continued pre-hearing motions of the parties on September 24, 2019. Employee was present and represented by Attorney Joshua Walsh. Management was represented by Assistant Attorney Generals Donna Lawrence and Matthew Wolff. This matter was a continuation of the hearing held May 1, 2019. Following the May 1, 2019 hearing, the undersigned filed a recommendation on May 24, 2019. The Commission upon the request of Management referred the matter back to the undersigned to hear further argument. The recommendations filed by the undersigned on May 24, 2019 are incorporated by reference as though fully written herein.

Counsel for Employee stated that the Employee is not seeking any more documents from Management at this time. It appears from Management's statements that they believe they have provided to Employee all materials in their possession relevant to this adverse action.

**RECOMMENDATIONS FOLLOWING CONTINUED
MOTION HEARING; SEPTEMBER 24, 2019**
Christopher Florig vs. Guam Fire Department
Adverse Action Appeal Case No.: 18-AA07T

1 Management brought forth the following motions:

2 1. Management requests a ruling as to whether Article 2 of the Administrative
3 Adjudication Law applies to CSC hearings.

4 5 GCA, §9200 Applicability states:

5 “The procedure of any agency shall be conducted pursuant to the provisions of this
6 Chapter in any proceeding before an agency in which legal rights, duties or privileges of specific
7 parties are required by law to be determined after an agency hearing.”

8 This statute must be interpreted in accordance with its plain language which clearly
9 states that the procedure of “any agency shall be conducted pursuant to the provisions of this
10 chapter.” Nothing in the statute indicates an exception to this rule. The statute is a guide to
11 show how agencies should operate and any rules made pursuant to the statute must be compliant
12 with the statute.

13 The undersigned, therefore finds that Article 2 of the Administrative Adjudication Law
14 applies to CSC hearings and CSC hearings must be compliant with the statute.

15 2. Management moved to delay this matter until the Supreme Court of Guam issues its
16 opinion in the case of Mark Charfaurous where the issue of Management’s request to call the
17 employee first may be decided. Delaying this matter to await the decision of the Guam Supreme
18 Court would put this matter in an open ended delay unfair to the employee and contrary to the
19 mission of the CSC to timely process the appeals of employees. Moreover the decision in
20 Charfaurous will not be dispositive of this case. It may set a rule on the order of witnesses but
21 it will not give the CSC guidance on how to decide this case on its merits. Management’s
22 motion to stay this case is **DENIED**.

1 3. Management simultaneously moves for a ruling as to whether the time standards
2 have been waived and notes that time standards in effect at the time this case began were
3 "aspirational" not mandatory. Whether the time standards have been waived or not has no
4 bearing on the outcome of this matter before the CSC and the undersigned makes no ruling as
5 to this matter.


6 4. Management moves for an order allowing it to subpoena Joseph Razzano as a
7 witness. Management has not requested a subpoena and no date has yet been set for the hearing
8 on the merits. The undersigned sees no reason why a request for the subpoena would not be
9 granted.

10 5. Management seeks a ruling that the Open Government Law (OGL) was violated on
11 October 25, 2019, November 8, 2018, and January 15, 2019. If the OGL was violated any
12 actions of the Commission on those dates would be void. A finding by the Commission either
13 way with respect to the OGL will not make a decision valid or void. Management's request for
14 a ruling is **DENIED**.

15 CONCLUSIONS

16 The ALJ respectfully recommends that the Commission resolve the motions herein as
17 indicated above.

18 Dated this 27th day of September, 2019.

19
20 
ERIC D. MILLER
21 Administrative Law Judge
22 Civil Service Commission
23