



BEFORE THE  
GUAM CIVIL SERVICE COMMISSION  
BOARD OF COMMISSIONERS



IN THE MATTER OF:

EDDIE N. CASTRO,

Employee,

vs.

PORT AUTHORITY OF GUAM,

Management.

ADVERSE ACTION APPEAL  
CASE NO. 13-AA13T

DECISION AND JUDGMENT

This matter came before the Civil Service Commission ("Commission") for Merit Hearings on June 11, 16, 24, 25, 2015; July 14, 16, 28, 29, 2015; August 4, 6, 13 and 18, 2015, on Employee Eddie N. Castro's ("Castro") appeal from his Final Notice of Adverse Action issued by Management Port Authority of Guam ("Management"). Present for Management were General Manager, Joanne Brown, and counsel of record, Michael F. Phillips, Esq., of The Law Offices of Phillips & Bordallo, P.C. Also present were Employee, Eddie N. Castro, and his counsel of record, William Pole, Esq., of The Law Offices of Gumataotao & Pole.

I.  
JURISDICTION

The Commission has jurisdiction over this matter pursuant to the Organic Act of Guam, Title 4 of the Guam Code Annotated §§ 4401, et seq., and the Port Authority of Guam's Personnel Rules and Regulations.

ORIGINAL



1 3. Port Police Chief, Doris Agüero reviewed the Main Gate, Dispatch, and Supervisors' log  
2 books to determine whether official business was in fact being performed on behalf of the  
3 Authority at the time the vehicle was spotted.

4 4. At around 1:00 a.m., the graveyard gate-assigned officer, Port Police II Roger S. Padios,  
5 documented in the Main Gate log book that he received an anonymous phone call from a  
6 male individual inquiring if the operator of the Port Police vehicle was conducting official  
7 business. POII Padios responded he was unaware of any activity and forwarded the call to  
8 the assigned dispatcher in the Port Police office, Port Police Security Guard (armed) Rodney  
9 F. Akima.

10 5. Akima testified that he notified Castro of the anonymous call through private-mode on  
11 the department-issued I-connect radio. According to Akima, when he informed Castro of the  
12 caller's inquiry, Castro responded by saying, "Why didn't you just say that we were doing a  
13 follow up on an investigation or we are hungry and we are getting food?"

14 6. Port Police II Albert A. Gabriel testified on Tuesday, February 19, 2013, regarding the  
15 February 14, 2013, incident, that Padios received an anonymous call around 1:00 a.m.  
16 inquiring whether office business was in fact being performed on behalf of the Port Authority  
17 beyond Port Police jurisdiction. Gabriel testified that Castro came back with a white plastic  
18 bag containing canned goods and Castro remarked, "Man I'm going to get demoted to Police  
19 Officer II again."

20 7. Castro admitted to being out of jurisdiction on February 13 or 14, 2013, conducting  
21 personal business on government time with a government vehicle and getting food from his  
22 girlfriend, Annie Sablan.

23 8. On Monday, February 18, 2013, Port Police II Eric J. Salas testified that he notified Chief  
24 Agüero that Port Police II Jonathan J. Quenga and Port Police Security Guard (armed)

1 Ronald E. Laitan, certain official documents had been falsified regarding Castro's activities  
2 on February 16, 2013.

3 9. Day-shift Officer in Charge, Port Police II Frank J. San Nicolas testified Castro did not  
4 relieve him as indicated in the Supervisors' documented log entry, but instead by graveyard-  
5 shift Port Police II Jonathan J. Quenga.

6 10. Castro falsely documented in the Supervisors' log book that he relieved Officer in Charge  
7 Port Police II Frank J. San Nicolas and the written entries in the Supervisor's log book falsely  
8 represent that Castro was on duty from 5:30 p.m. to 11:00 p.m.

9 11. Castro timed himself in on the Port Police Daily Time Sheet for 1st Platoon (graveyard  
10 shift) and falsely represented he was on duty from 5:00 p.m. to 11:00 p.m. Castro did not  
11 report for duty until approximately 9:15 p.m. and Castro secured from duty at approximately  
12 9:30 p.m. on February 16, 2013.

13 12. On February 16, 2013, Castro falsified the time he reported to and left work on his  
14 timesheet. It is clear Castro was not at work from 5:00 p.m. to 10:00 p.m. as his schedule  
15 required or his time sheet indicated.

16 **IV.**  
17 **ANALYSIS**

18 This case was presented, following the format of the Notices of Adverse Action, as  
19 consisting of "Incident #1" relating to the February 14, 2013, events where Castro was out of  
20 jurisdiction with the Port vehicle, and "Incident #2" where Castro came into work late, but  
21 signed in as if on time. The various violations of Port Rules and Regulations follow from these  
22 incidents.

23 Employee, Eddie Castro is a seasoned employee with twenty (20) years of service with  
24 the Port Authority of Guam ("Port"). The Commission appreciates Castro's work experience  
25


1 and expects Castro to know the Port's Rules and Regulations as it relates to his job duties and  
2 responsibilities. The Commission notes Castro has a history of problems in terms of absenteeism  
3 and leaving work. Castro was given written warnings regarding his performance and in fact  
4 received a below satisfactory rating on his attendance. Practically all the witnesses testified that  
5 Officer Castro is not fit to be a supervisor and claimed Officer Castro is irresponsible, unfair, and  
6 not a "team player." Consistent with the Commission's concerns about Castro's failure to adhere  
7 to the Port's Rules and Regulations, are the witnesses' testimony that they work in a hostile  
8 environment under Castro's leadership and Castro does not have the qualities of a supervisor.  
9 The Commission further finds that as a supervisor Castro violated Port Rules and Regulations  
10 and as a supervisor recognizes that his employees are more likely to follow his inappropriate  
11 actions. Yet, we do note that prior to his promotion to Lieutenant, Castro appears to have been a  
12 model officer. His file contains numerous commendations and his strong performance as a guard  
13 clearly led to his eventual promotion to a commanding officer. Unfortunately, not everyone's  
14 temperament is well-suited to a leadership position; however, if Castro was an exemplary officer,  
15 there is no need to terminate him when a demotion would serve to remedy the situation.

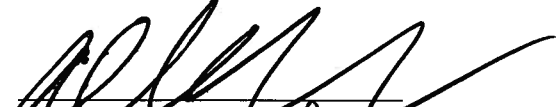
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**V.**  
**CONCLUSION**

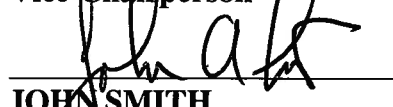
16 The Commission finds, by a vote of 4-2, Management proved by clear and convincing  
17 evidence that Castro committed Incident #1. The Commission further finds, by a vote of 4-2,  
18 Management proved by clear and convincing evidence that Castro committed Incident #2. While  
19 the Commission appreciates the gravity of these offenses, the Commission took a separate vote  
20 to determine the appropriate adverse action to be taken against Castro. In determining Castro's  
21 punishment and pursuant to CSC Adverse Action Rule 11.7.3, the Commission decided instead  
22 to place Employee in the position of "Guard," the severest demotion, with a vote of 5 to 1.  
23 Therefore, the Commission rules in favor of Management and adjusts the termination by placing  
24 Castro in the position of "Guard."

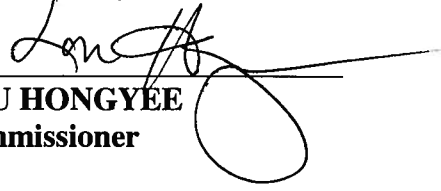
1 SO ORDERED THIS 29<sup>th</sup> DAY OF March 2016, *nunc pro tunc* August  
2 18, 2015.  
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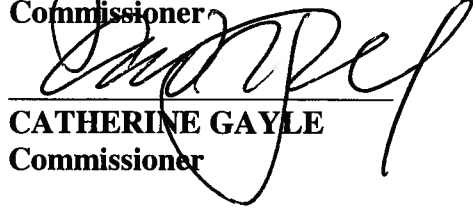
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5 **EDITH PANGELINAN**  
6 **Chairperson**

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5 **DANIEL D. LEON GUERRERO**  
6 **Vice-Chairperson**

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8 **PRISCILLA T. TUNCAP**  
9 **Commissioner**

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8 **JOHN SMITH**  
9 **Commissioner**

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9 **LOU HONGYEE**  
10 **Commissioner**

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9 **CATHERINE GAYLE**  
10 **Commissioner**