

Rec'd AMP 11/25/14

BUSA 28014-18:00



**BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS**



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IN THE MATTER OF:

FRANKLIN CASTRO,

Employee,

vs.

**DEPARTMENT OF PUBLIC
WORKS,**

Management.

**ADVERSE ACTION APPEAL
CASE NO. 0805-AA19 SP

DECISION AND ORDER**

Pursuant to a Decision and Order in Guam Superior Court Special Proceedings Case No. SP099-09 dated 10 July 2012, reversing this Commission's 23 April 2009 Decision and order not to allow an evidentiary hearing on Employee's Motion to Revoke Adverse Action, and, remanding the matter for an evidentiary hearing to determine if the 60 day rule barred the charges against the Employee and application of the continuing wrong doctrine, the Civil Service Commission conducted evidentiary hearings on these issues between May and October of this year. At these hearings, the Employee was present with his counsel of record, Daniel S. Somerfleck, Esq. Also present at the hearings, representing Management was Department of Public Works Director Carl Dominguez (or his designee) and counsel of record, Assistant Attorney General, Benjamin M. Abrams, Esq.


The Commission heard testimony from the Employee, his physician Walter Chris Perez, M.D. and former Public Works Director Larry Perez.

At the conclusion of evidence and argument of counsel on 24 September 2014, the six Commissioners conducting the hearings deliberated on 25 September 2014 and by a split vote of three (3) in favor of granting Employee's Motion, and three (3) in favor of denying Employee's

ORIGINAL


1 Motion, there was no affirmative vote by a quorum of four members as required by 4 GCA
2 §4402. Consequently the Civil Service Commission rules that Employee failed to meet his
3 burden of proof by a preponderance of the evidence on his Motion to Revoke Adverse Action
4 and that said motion be, and the same is, hereby denied.

5 IT IS SO ORDERED THIS 25th DAY OF November 2014.

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7 **LUIS R. BAZA**
Chairman


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9 **MANUEL R. PINAUIN**
Vice-Chairman

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11 **PRISCILLA T. TUNCAP**
Commissioner

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13 **JOHN SMITH**
Commissioner

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15 **LOU HONGYEE**
Commissioner

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17 **DANIEL D. LEON GUERRERO**
Commissioner

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19 **EDITH C. PANGELINAN**
Commissioner

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