



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



IN THE MATTER OF:

JESSIE UNDERWOOD,

Employee,

vs.

DEPARTMENT OF EDUCATION,

Management.

**ADVERSE ACTION APPEAL
CASE NO.: 15-AA19T**

DECISION AND JUDGMENT

I. INTRODUCTION

The above-captioned matter came before the Guam Civil Service Commission (the "CSC") On May 9, 2019 for a Hearing on Management's Motion to Dismiss based on the Employee's Failure to Prosecute. After due deliberation without oral argument, the CSC voted unanimously in favor of Management; thereby dismissing Adverse Action Appeal, Case No. 15-AA-19T, Jessie Underwood vs. Guam Department of Education.

II. JURISDICTION

The jurisdiction of the Guam Civil Service Commission is based upon the Organic Act of Guam, Title 4 Guam Code Annotated ("GCA") §§ 4401, *et seq.*, and relevant GDOE Personnel Rules and Regulations.

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1 **III. RELEVANT FACTS**

2 On May 9, 2019, the CSC held a hearing on the motion filed by Management to dismiss
3 Employee's Adverse Action Appeal Case No.15-AA19T. The motion filed by Management
4 on March 19, 2019 was based on the Employee's Failure to Prosecute Adverse Action Appeal
5 filed by Employee Jessie Underwood, on September 24, 2015. Management presented the
6 following:

7 **On September 4, 2015**, Jessie Underwood was dismissed from the Guam Department
8 of Education.

9 **On September 24, 2015**, Jessie Underwood filed an appeal with the Civil Service
10 Commission based on "Management's decision to terminate me was too severe of a
11 punishment".

12 **On February 9, 2016**, authorized representatives for the Employee (David Babauta)
13 and Management (Robert Koss), submitted to the Civil Service Commission a Stipulation of
14 Continuance of Prehearing Conference to May, 2016, pursuant to CSC Rule 9.4.2 that permits
15 such a continuance when an Employee has been charged with a criminal offense which arises
16 from the same factual basis as the adverse action.

17 **On May 5, 2016**, authorized representatives for the Employee (David Babauta) and
18 Management (Robert Koss) submitted a Stipulated Motion to Stay Proceedings on the basis
19 that the Employee is presently charged with a criminal offense.

20 **On May 6, 2016**, CSC Executive Director Peter Calvo signed the Order stating "The
21 Motion to Stay Proceeding in the above captioned and numbered Case is GRANTED: the
22 proceedings are stayed until further Order; upon motion by either Party or the Commission."

23 **On April 9, 2018**, Employee, Jessie Underwood entered unto a Deferred Plea
24 Agreement and moved to change her plea from NOT GUILTY to that of Guilty. It is now
25 eleven (11) months since the Deferred Plea Agreement of April 9, 2018, and no communication
from the Employee to her representative, Daniel Del Priore, has been transmitted as to the
intent disposition of this appeal.

On April 29, 2019, Employee's lay representative, Daniel R. Del Priore, filed with the
CSC documentation that Employee had been properly notified by return mail of Management's
Motion to Dismiss and that Employee had not contacted her representative.

1 **IV. ANALYSIS**


2 Employee has demonstrated a lack of interest in moving forward with her appeal.
3 Records verify it has been three years eight months with little or no contact between Employee
4 and her Lay Representative. The most current attempt from Employee's Lay Representative,
5 to connect with Employee was unsuccessful through return receipt mail. Employee did receive
6 the correspondence, but failed to acknowledge with any sort of direction or communication.

7 **V. CONCLUSION**

8 After due deliberation without oral argument, the CSC voted unanimously by a vote
9 of 6 to 0 in favor of Management; thereby dismissing Adverse Action Appeal Case No: 15-
10 AA19T, Jessie Underwood vs. Guam Department of Education. The CSC therefore finds for
11 Management and the Adverse Action Appeal against Guam Department of Education is hereby
12 dismissed with prejudice.

13 SO ADJUDGED this 9th day of July, 2019.

14 
15 LUIS R. BAZA
16 Chairperson


17 JUAN K. CALVO
18 Vice Chairperson

19 
20 PRISCILLA T. TUNCAP
21 Commissioner


22 JOHN SMITH
23 Commissioner

24 (absent)
25 CATHERINE GAYLE
Commissioner

Transmission Report

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CIVIL SERVICE COMMISSION

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Abbreviations:

HS: Host send
HR: Host receive
WS: Waiting send

PL: Polled local
PR: Polled remote
MS: Mailbox save

MP: Mailbox print
RP: Report
FF: Fax Forward

CP: Completed
FA: Fail
TU: Terminated by user

TS: Terminated by system
G3: Group 3
EC: Error Correct



Susan Corbin <susan.corbin@csc.guam.gov>

Civil Service Commission Judgments

1 message

Susan Corbin <susan.corbin@csc.guam.gov>

Wed, Jul 10, 2019 at 2:02 PM

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 July 9, 2019. This is mandated under 4 GCA, Section 4403. Thank you.

Si Yu'os Ma'ásé

Susan Corbin

Legal Secretary

Civil Service Commission

Tel: 647-1855

 Civil Service Commission Judgments of July 9, 2019.pdf
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