



BEFORE THE  
 GUAM CIVIL SERVICE COMMISSION  
 BOARD OF COMMISSIONERS



IN THE MATTER OF:

JOHNNY C. TOVES,

Employee,

vs.

DEPARTMENT OF PUBLIC  
 WORKS,

Management.

ADVERSE ACTION  
 CASE NO.: 17-AA16T

DECISION AND JUDGMENT

This matter came before the Civil Service Commission (CSC) on June 18, 2020, regarding Management's Motion to Dismiss Employee's Appeal for failure to prosecute his appeal and his failure to attend the motion hearing scheduled on June 18, 2020.

Present at the hearing for Management were Assistant Attorney General Donna Lawrence, and Director Vincent Arriola, Department of Public Works. Robert Koss was present on behalf of Employee, and communicated that he had lost contact with Employee since April, 2020. Employee was not present.

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DECISION AND JUDGMENT

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1 Commissioners present at the hearing were Chairman Juan K. Calvo, Vice Chairman  
2 John Smith, Commissioner Priscilla T. Tuncap, Commissioner Emilia Rice and Commissioner  
3 Andrew Benavente.

4 *Jurisdiction*

5 CSC has jurisdiction to hear adverse action appeals filed by classified employees under  
6 4 GCA § 4403-44 (b) involving suspensions, demotions, and terminations of classified  
7 employees.

8 *Background/Facts*

9 Management terminated Employee pursuant to a Notice of Final Adverse Action served  
10 on Employee. Employee filed an adverse action appeal with the Commission in 2017  
11 concerning his termination. Employee has failed to pursue his appeal. Employee failed to  
12 attend the scheduled motion hearing on June 18, 2020 before the Commission.

13 At the June 18, 2020, hearing, Employee's representative admitted he has lost contact  
14 with Employee since April, 2020.

15 *Ruling by Commissioners*

16 CSC AA Rule 9.6 allows the CSC to dismiss an appeal if the Employee is not present  
17 for a motion hearing. Employee was not present for the hearing and there was no reasonable  
18 excuse for his failure to attend the scheduled motion hearing.

19 Neither Employee nor his representative, Guam Federation of Teachers, filed a  
20 motion as required under CSC Adverse Action Rules (March 1, 2020) to allow the hearing to  
21 go forward in the absence of Employee.

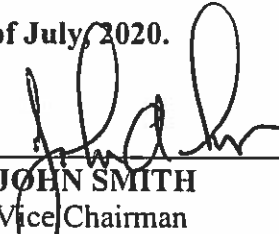
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23 **DECISION AND JUDGMENT**

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1 After review of the file and hearing the arguments and information submitted as  
2 referenced above, the Commissioners voted 5 to 1 to dismiss Employee's adverse action appeal  
3 with prejudice. Chairman Calvo dissenting.


4 **IT IS SO ADJUDGED** on this 30<sup>th</sup> day of July, 2020.

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6 **JUAN K. CALVO**  
Chairman

  
7 **JOHN SMITH**  
Vice Chairman

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9 **PRISCILLA TUNCAP**  
Commissioner

  
10 **EMILIA F. RICE**  
Commissioner

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12 **ANTHONY P. BENAVENTE**  
Commissioner

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