



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



IN THE MATTER OF:

TALING TAITANO,

Employee,

vs.

DEPARTMENT OF EDUCATION,

Management.

**MINI-HATCH ACT
COMPLAINT
CASE NO.: 12-MH-01**

DECISION AND JUDGMENT

INTRODUCTION

The above-captioned matter came before the Guam Civil Service Commission (the "CSC") during the April 2, 2019, 2nd Reading of Staff Assessment Report dated May 17, 2012, regarding a Mini-Hatch Complaint against Employee Taling Taitano. After due deliberation without oral argument, the CSC found that it did not have jurisdiction over the Mini-Hatch Act Complaint, and voted unanimously in favor of Employee; thereby dismissing the Mini-Hatch Act Complaint against Employee.

DECISION AND JUDGMENT

Taling Taitano vs. Department of Education
Mini-Hatch Act Complaint, CSC Case No.: 12-MH-01

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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.

III.

RELEVANT FACTS

On May 24, 2012, the CSC held a session to hear its Staff Assessment Report dated May 17, 2012, on a Mini-Hatch Act Complaint “Notice of Prohibited Political Activity” filed against Employee Taling Taitano, who was Acting Superintendent of Education at that time.

The May 17, 2012, Staff Assessment Report addressed a certain request; specifically: “The staff recently received two inquiries regarding Ms. Taling Taitano, Acting Superintendent of Education and who was also elected as a Democratic Party of Guam official.”

In addition, the May 17, 2012, Staff Assessment Report reviewed certain authority, (specifically, 4 GCA §§ 5101 and 5105), and other related laws (specifically, 4 GCA §§ 4102 and 4403).

Moreover, the May 17, 2012 Staff Assessment Report stated the issues as the following:

1. Does the Civil Service Commission have jurisdiction to conduct Investigations on Prohibited Political Activity also known as the Mini-Hatch Act?

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1 2. Is Ms. Taling Taitano subject to the provisions of Title 4 G.C.A. § 5103
2 of the Mini Hatch Act?

3 Furthermore, the May 17, 2012 Staff Assessment Report stated its conclusion as the
4 following:

- 5 1. ***In regard to Issue #1:*** There may be a jurisdiction concern pursuant to
6 4 G.C.A. §4403 (h) “The jurisdiction of the commission shall not extend
7 to ... any position or person, appeal or proceeding of whatever kind or
8 description if the position is denominated “unclassified” in this title ...
9 [cited in part]”, amended by PL 26-121, (Aug 2002). Please note
10 4.G.C.A. §5101 was effectuated in 1974. Ms. Taling Taitano is an
11 unclassified employee.
- 12 2. ***In regard to Issue #2:*** The staff does not have sufficient information to
13 make this determination and recommends an investigation to be
14 authorized to review this matter more thoroughly.

15 The CSC issued an Order After Hearing dated March 21, 2019, stating that a hearing
16 on this matter had been conducted on May 24, 2012, and that the Commissioners voted 6-0 to
17 request an Attorney General’s opinion on the jurisdiction question presented, and to hold off
18 on further investigation of the matter until the Commission receives a reply from the Attorney
19 General’s Office.

20 The CSC forwarded a “Request for Opinion Regarding Jurisdiction of the Civil Service
21 Commission over Political Activity (“Mini-Hatch”) Complaints Involving Unclassified
22 Employees” to Attorney General of Guam, Leonardo Rapadas, dated May 24, 2012.

23 No response was provided.

24 The CSC conducted a second reading of the May 17, 2012, Staff Assessment Report
25 recently on April 4, 2019.

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IV.
ANALYSIS

Title 4 GCA § 4403(h) states:

The jurisdiction of the Commission shall not extend to academic personnel of the Guam Community College and the University of Guam, except upon mutual consent by the governing board of the respective institution and the Commission; *nor to any position or person, appeal or proceeding of whatever kind or description if the position is denominated "unclassified" in this Title,* except to the extent explicitly permitted in this Section.

At the time that the CSC received the Mini-Hatch Act Complaint in this case, Employee Taling Taitano was an unclassified employee.

After due deliberation without oral argument, the CSC determined that it did not have jurisdiction over Employee because she was an unclassified employee at the time that the Mini-Hatch Act Complaint was received, and the CSC voted unanimously in favor of Employee; thereby dismissing the Mini-Hatch Act Complaint against Employee.


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V.

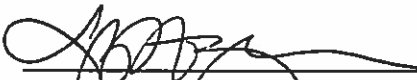
CONCLUSION

Accordingly, the CSC after due deliberation determined, by unanimous vote of 4 to 0, that it did not have jurisdiction over Employee regarding the Mini-Hatch Act Complaint. The Commission therefore finds for Employee Taling Taitano, and the Mini-Hatch Act Complaint against Employee is hereby dismissed.

IT IS SO ADJUDGED on this 25th day of April, 2019.



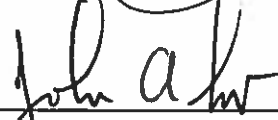
LUIS R. BAZA
Chairperson



LOURDES HONGYEE
Vice-Chairperson



PRISCILLA TUNCAP
Commissioner



JOHN SMITH
Commissioner

(Absent)

CATHERINE GAYLE
Commissioner



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

Civil Service Commission Judgments - April 25, 2019

1 message

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

Fri, Apr 26, 2019 at 11:25 AM

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 April 25, 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

3 attachments**Daniel Santos vs. GIAA.Order After Hearing.CSC18-NOPA01 and 18-PA05.April-25-2019.pdf**

46K

**Josette Javelosa vs. Port Authority of Guam; CSC13-AA01T SP.April-25-2019.pdf**

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**Taling Taitano vs. DOE; CSC12-MH-01.Decision and Judgment.April-25-2019.pdf**

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