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BEFORE THE CIVIL SERVICE COMMISSION BOARD OF COMMISSIONERS



IN THE MATTER OF: BRYAN J. CRUZ,

Employee,

v.

OFFICE OF THE ATTORNEY GENERAL,

Management.

ADVERSE ACTION APPEAL CASE NUMBER: 24-AA13T

ORDER AFTER HEARING

I. INTRODUCTION AND OVERVIEW

This matter came on to be heard before the Civil Service Commission ("CSC") on December 12, 2024, for Management's Motion for Review of Order Issued by Executive Director Regarding Discovery Rule 8.1 ("Motion for Review"). This Motion for Review is in response to the Discovery Order issued by CSC's Executive Director on November 21, 2024 ("Order").

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Commissioners present at the hearing were Chairman Juan K. Calvo, Vice Chairman Anthony P. Benavente, Commissioner Francisco T. Guerrero, Commissioner Cathy Catling, and Commissioner Rose A. Morales.

Office of the Attorney General ("Management") was present through Special Projects Coordinator John Salas, and represented by Attorney Nathan Tennyson.

Bryan J. Cruz ("Employee") was present and was represented by Attorney Jacqueline T. Terlaje.

After the deliberations in this Motion CSC's Administrative Counsel put on the record that Management's Delegation of Authority may be insufficient under CSC Adverse Action Rule 9.7, noting that only the Commissioners had the power to determine acceptability of a Delegation of Authority. The Commissioners voted 5 to 0 to allow Management's Delegation of Authority for today's motion hearing.

II. <u>LAW AND JURISDICTION</u>

CSC has jurisdiction over the Employee's Adverse Action Appeal pursuant to 4 GCA §4403, and 4 GCA §4406. CSC Adverse Action Rule 8 and Rule 8.1 allow for the Executive Director to control discovery through the issuance of orders and allows those orders to be reviewed by the Commission.

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III. STANDARD OF REVIEW

The moving party bears the burden of proof by a preponderance of the evidence on a motion. CSC AA. R. 9.

IV. FINDINGS

Employee is a classified Government of Guam employed with Management as an Investigator III who received an adverse action and appealed to the CSC.

In the course of the appeal, Employee sought discovery and faced difficulty in getting the information as permitted by statute. Employee then sought an Order from CSC's Executive Director to compel discovery from Management. That request was granted on November 21, 2024.

V. <u>DELIBERATION</u>

The Commission, after hearing from both parties on Management's motion, discussed the timeline of cases and the importance of all Employee's right to discovery. Commissioners also discussed undue delay and that the Commission will work to prevent undue delay. In the words of the Chairman, "Our Executive Director's Order is legal." Commissioner Catling reiterated Executive Director's Order and stated that the Executive Director complied with due diligence in the making of these statements.

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VI. CONCLUSION

The Commission, voted to enforce the Executive Director's Order and that the requested interviews happen immediately. Accordingly, the Commission, after due deliberation, determined by a vote of 5 to 0 to enforce the Executive Director's Order.

SO ORDERED this 14th day of January, 2025.

JUAN K. CALVO

Chairman

- ABSENT-

FRANCISCO T. GUERRERO

Commissioner

ROSE MARIE A. MORALES

Commissioner

ANTHÓNY P. BENAVENTE

Vice Chairman

CATHY O CATLING

Commissioner

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