



BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS



IN THE MATTER OF:

GEORGE P. PATAWARAN,

Employee,

vs.

DEPARTMENT OF CORRECTIONS,

Management.

ADVERSE ACTION APPEAL
CASE NO.: 22-AA08T

DECISION AND JUDGMENT

This matter came before the Civil Service Commission ("Commission") for a Hearing on the Merits on February 28, 2023, March 1, 2023, March 2, 2023, and March 3, 2023. Deliberations were held on March 7, 2023 at the Commission's next regularly scheduled meeting.

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DECISION AND JUDGMENT

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1 Commissioners present were Chairman Juan K. Calvo, Vice Chairman
2 Anthony P. Benavente, Commissioner John A. Smith, and Commissioner Robert
3 C. Taitano at all the hearings.

4 Present at the hearings were George P. Patawaran (“Employee”), who was
5 represented by Robert E. Koss, Lay Representative. Present for the Department
6 of Corrections (“DOC”) was Matthew Wolff, Assistant Attorney General, and
7 Acting Director of the Department of Corrections, Robert Camacho
8 (“Management”).

9 The jurisdiction of the Civil Service Commission is based upon the Organic
10 Act of Guam, 4 G.C.A. §4401, *et seq.*, and relevant Personnel Rules and
11 Regulations.

12 On September 9, 2022, Employee was served a Final Notice of Adverse
13 Action that informed him that he had been terminated from his employment
14 effective immediately based on the charges of *refusal to perform a prescribed duty*
15 *or responsibility, insubordination, and other charge not specifically listed*
16 *stemming from a single incident that occurred in the hallway of the Superior Court*
17 *on June 16, 2022. Management alleged Employee was discourteous to the*
18 *Director in public and all charges stemmed from this incident, but Employee*

19 **DECISION AND JUDGMENT**

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1 denied his conduct was inappropriate under the circumstances. Employee timely
2 filed an adverse action appeal with the Civil Service Commission on
3 September 12, 2022.

4 Employee's appeal came before the Commission for Hearing on the Merits
5 for four consecutive days beginning on February 28, 2023. The burden of proof
6 was on Management to show clearly and convincingly that the action of DOC was
7 correct. The parties were given the opportunity to present their case. Employee
8 and management were provided the opportunity to call witnesses to testify and the
9 Commissioners questioned the witnesses.

10 Following the conclusion of the hearing and deliberations, by a vote of 2 to
11 2, the Commission ruled that Management did not meet its burden of proof to
12 show clearly and convincingly that the action of DOC was correct to sustain the
13 adverse action. Pursuant to the rule of four, Management must receive four votes
14 to sustain its action. Therefore, the Employee prevailed in his appeal.

15 Employee shall be reinstated immediately with full back pay and benefits.
16 The adverse action is voided and shall be expunged from the Employee's files.
17 Failure to adhere to a decision by the Commission to reinstate an employee shall
18 result in reduction in salary by ten percent (10%) for the responsible agency head

19 **DECISION AND JUDGMENT**

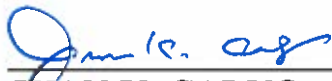
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1 and his deputy from the date of the decision until the date of reinstatement in full
2 compliance with the decision. The Commission may bring an action in the
3 Superior Court to enforce the reinstatement of the Employee and impose any
4 appropriate penalties or remedies available at law or equity.

5 **SO ORDERED** this 30th day of March, 2023.

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7 **JUAN K. CALVO**
8 Chairman

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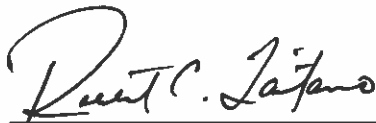
7 **ANTHONY P. BENAVENTE**
8 Vice-Chairman

9 **ABSENT**

10 **PRISCILLA T. TUNCAP**
11 Commissioner

8 

9 **JOHN SMITH**
10 Commissioner

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12 **ROBERT C. TAITANO**
13 Commissioner

11 **ABSENT**

12 **FRANCISCO T. GUERRERO**
13 Commissioner