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



**IN THE MATTER OF:**  
  
**JOYJEAN ARCEO,**  
  
**Employee,**  
  
**vs.**  
  
**PORT AUTHORITY OF GUAM,**  
  
**Management.**

**ADVERSE ACTION APPEAL  
CASE NO.: 21-AA09D  
  
DECISION AND JUDGMENT**

**INTRODUCTION**

This matter came before the Civil Service Commission (“CSC”) on Management’s Motion to Dismiss on November 9, 2021, via Zoom. Employee JoyJean Arceo (“Employee”) appeared with counsel, Attorney Jacqueline T. Terlaje. Both General Manager Rory J. Respicio, and Deputy General Manager of Administration and Finance Luis R. Baza, were present on behalf of the Port Authority of Guam (“Management”), and were represented by counsel, Attorney

1 Christine K. Claveria. Commissioners present were Chairman Juan K. Calvo, Vice  
2 Chairman John A. Smith, Commissioner Priscilla T. Tuncap, Commissioner  
3 Anthony P. Benavente, and Commissioner Robert C. Taitano.

#### 4 JURISDICTION

5 The jurisdiction of the Commission is based upon Title 4 Guam Code  
6 Annotated, § 4401, *et seq.*, and relevant portions of the Port Authority of Guam's  
7 Personnel Rules and Regulations. Management's Motion to Dismiss is made  
8 pursuant to Rule 9.5 of the CSC Rules of Procedure for Adverse Action Appeals.

#### 9 DISCUSSION

10 Management moved to dismiss the Employee's Notice of Adverse Action  
11 Appeal filed April 23, 2021, on the grounds that the CSC lacked jurisdiction  
12 pursuant to Title 4 GCA §§ 4403(b), as no final adverse action was issued to  
13 Employee, nor did Management take adverse action against Employee for which  
14 she has a right to appeal. The Employee opposed, arguing that the Employee's  
15 temporary assignment to the Department of Administration's Guam Services  
16 Agency ("GSA") for training purposes constituted an unlawful removal, *de facto*  
17 demotion, and/or suspension from her position as the Port's Procurement and  
18 Supply Manager and therefore, was an adverse action.

#### 20 **DECISION AND JUDGMENT**

21 *Joyjean Arceo vs. Port Authority of Guam*  
Adverse Action Appeal CSC Case No.: 21-AA09D

1           On March 15, 2021, Management served Employee with a Notice of  
2 Proposed Adverse Action (“NPAA”). On April 5, 2021, instead of taking action  
3 on the NPAA, Management served Employee with a Letter of Reprimand. A Letter  
4 of Reprimand is not an adverse action and thus, adverse action procedures do not  
5 apply. Further, in Employee’s March 23, 2021, response to the NPAA, Employee’s  
6 counsel stated that Management failed to provide Employee with a reasonable  
7 opportunity to correct inadequate performance, including specific training to  
8 improve the level of job performance or correct unacceptable habits or practices.  
9 Thus, Management assigned Employee to GSA temporarily for training purposes  
10 with respect to Guam Procurement rules, regulations, policies and procedures.

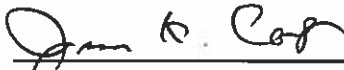
11           Employee was neither suspended nor demoted. Employee did not suffer  
12 from a loss of pay. Neither was Employee ever terminated nor removed from her  
13 position as the Port’s Procurement and Supply Manager. Accordingly, Employee  
14 did not suffer from an adverse action within the meaning of Title 4 GCA § 4403(b).  
15 Finally, this matter is not reviewable as a personnel action pursuant to Title 4 GCA  
16 § 4403(d).

### **DECISION AND JUDGMENT**

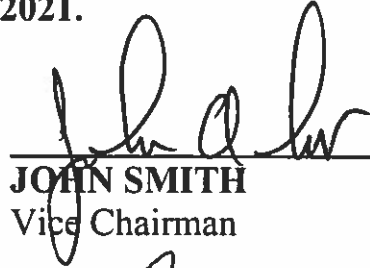
17           After deliberations, the Commission voted four (4) to one (1) (Commissioner  
18 Tuncap dissenting) in favor of Management’s Motion to Dismiss, finding that  
19 Management met its burden of proof that the CSC lacks jurisdiction to hear this

1 matter pursuant to Title 4 GCA § 4406 and CSC Rule 5 absent an adverse action.  
2 Accordingly, the CSC hereby **GRANTS** Management's motion, and **ORDERS** the  
3 Employee's Notice of Adverse Action **DISMISSED**.

4 **SO ORDERED** this 2nd of December, 2021.

5 


6 **JUAN K. CALVO**  
Chairman



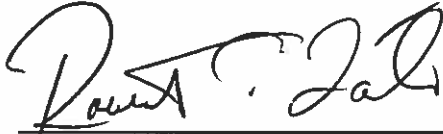
**JOHN SMITH**  
Vice Chairman

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8 *(absent)*

**PRISCILLA T. TUNCAP**  
Commissioner



**ANTHONY P. BENAVENTE**  
Commissioner

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**ROBERT C. TAITANO**  
Commissioner