

22-692

CIVIL SERVICE COMMISSION

~~10~~ 27 2022

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

IN THE MATTER OF:

MANNY T. ACFALLE,

Employee,

vs.

**DEPARTMENT OF
CORRECTIONS,**

Management.

**ADVERSE ACTION APPEAL
CASE NO.: 22-AA03T**

DECISION AND ORDER

This matter came before the Civil Service Commission (Commission) for a motion hearing on September 22, 2022, to hear Management's Motion for the Commission to Determine Burden of Proof Pursuant to 4 GCA, § 4402, § 4407 (c), and Javelosa filed and served on

DECISION AND ORDER

Manny T. Acfalle vs. Department of Corrections
Adverse Action Appeal CSC Case No.: 22-AA03T

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1 August 18, 2022. Employee did not file any opposition to this motion at
2 any time.

3 Present at the motion hearing on September 22, 2022, was Chairman
4 Juan K. Calvo, Commissioner Priscilla T. Tuncap, Commissioner John
5 Smith, and Commissioner Robert Taitano. Employee was present and was
6 represented by Robert Koss of the Guam Federation of Teachers.
7 Department of Corrections Director Robert Camacho was present and
8 represented by Assistant Attorney General Donna Lawrence.

9 ***Facts/Background***

10 Employee was personally served with a Notice of Proposed and Final
11 Adverse Actions on January 14, and January 28, 2022, which set forth
12 criminal allegations and charges relating to his unlawful use and possession
13 of illegal drugs and his violation of Guam's Drug-Free Workplace Policy
14 and Guam law, including executive orders, federal and state criminal
15 statutes, including Guam's Controlled Substances Act (9 GCA Chapter 67),
16 among other charges. In his appeal to the Commission, Employee did not
17 contest his use or possession of illegal drugs. Employee admitted to prior
18 use of methamphetamine in his Internal Affairs' interview.

19 **DECISION AND ORDER**

20 *Manny T. Acfalle vs. Department of Corrections*
Adverse Action Appeal CSC Case No.: 22-AA03T

1 ***Ruling as to Burden of Proof***

2 After reviewing Management’s motion, including all attachments, and
3 after listening to the arguments of the parties, and after consultation with the
4 Commission’s legal counsel and deliberations with each other, Chairman
5 Calvo made a motion to have the lower burden of proof of substantial
6 evidence be deemed the applicable burden of proof in this case. The
7 Commission voted 4 to 0 to approve the motion by Chairman Calvo for the
8 lower burden of proof of substantial evidence to be the applicable burden of
9 proof as set forth in 4 GCA, § 4407 (c) due to the criminal allegations and
10 charges against Employee set forth in the adverse action documents.

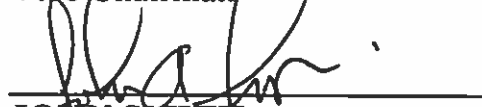
11 **SO ORDERED this 27th day of October, 2022.**

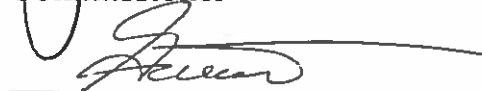
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14 **JUAN K. CALVO**
Chairman

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16 **PRISCILLA TUNCAP**
Commissioner

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18 **ROBERT C. TAITANO**
Commissioner

13 **- ABSENT -**
14 **ANTHONY P. BENAVENTE**
Vice Chairman

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16 **JOHN SMITH**
Commissioner

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18 **FRANCISCO T. GUERRERO**
Commissioner