



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



**IN THE MATTER OF:**

**MAKINO JAMES,**

**Employee,**

**vs.**

**DEPARTMENT OF CORRECTIONS,**

**Management.**

**ADVERSE ACTION**

**APPEAL CASE NO.: 22-AA02T**

**ORDER AFTER HEARING**

This matter came on to be heard September 29, 2022, before the Civil Service Commission (Commission) on Management's Motion to determine the burden of proof. Assistant Attorney General Donna Lawrence appeared for Management, Department of Corrections. Employee appeared with Lay Representative Robert

**ORDER AFTER HEARING**

*Makino James vs. Department of Corrections*  
Adverse Action Appeal Case No.: 22-AA02T

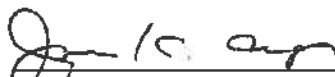
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1 Koss. Commissioners present were Chairman Juan K. Calvo, Commissioner Priscilla  
2 T. Tuncap, Commissioner John Smith, and Commissioner Robert C. Taitano.

3 Employee is accused of failing to do a physical head count of inmates, allowing  
4 one to escape and making a false log entry to cover his negligence. Management  
5 argues that this behavior would constitute the crimes of Tampering with Records to  
6 Deceive; Unsworn Falsification and Tampering with Public Records (9 GCA,  
7 Sections 46.25, 52.30, and 55.10 respectively).

8 The Commission deliberated and voted 3 to 1 (Commissioner Tuncap  
9 dissenting) to apply the lower burden of proof (substantial evidence). Failing to get  
10 four (4) affirmative votes, Management's motion failed.

11 **SO ORDERED THIS 24th day of January, 2023.**

12   
13 **JUAN K. CALVO**  
14 Chairman

  
15 **ANTHONY P. BENAVENTE**  
16 Vice Chairman

17 **PRISCILLA T. TUNCAP**  
18 Commissioner

**JOHN SMITH**  
Commissioner

19   
20 **ROBERT C. TAITANO**  
Commissioner

  
**FRANCISCO T. GUERRERO**  
Commissioner