

BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS



DATE
INITIAL

IN THE MATTER OF:

ERIC S.N. SANTOS,

Employee,

vs.

DEPARTMENT OF CORRECTIONS,

Management.

ADVERSE ACTION APPEAL
CASE NO. 12-AA02S

DECISION AND
JUDGMENT

33-16-1796

Office of the Speaker
Judith T. Won Pat, Ed.D

Date: 07-15-16

Time: 2:40pm

Received By: DMK

2016 JUN 12 PM 4:28

I.

INTRODUCTION

This matter came before the Civil Service Commission for a hearing on the merits on April 21, April 26, April 28, May 3 and May 5, 2016. Present were the employee and his representative, David Babauta; and Assistant Attorney General David J. Highsmith and the Director of the Department of Corrections, Jose San Agustin. The six members of the Commission were also present: Chairperson Edith Pangelinan, Catherine Gayle, John Smith, Priscilla Tuncap, Lourdes Hongyee, and Vice-Chairperson Danny Leon Guerrero. The Commission heard oral testimony, examined documentary evidence, and then deliberated. The Commission upheld the Adverse Action by a 6-0 vote, but pursuant to 4 G.C.A. 4406,

Office of Speech Bureau
7/15/16 10:45 AM

1 and a 5-1 vote, reduced the period of the employee's suspension from thirty (30) days to
2 twenty (20) days. The Commission makes the following findings.

3 **II.**

4 **JURISDICTION**

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

7 **III.**

8 **FACTS**

9 1. On November 1, 2011, the employee, Eric S.N. Santos, was employed as a
10 Corrections Officer I at the Department of Corrections.

11 2. On November 1, 2011, the employee telephoned Corrections Officer
12 Melvin Pangelinan to obtain the phone number of a person who had allegedly heckled the
13 employee at a mixed martial arts fight at the University of Guam fieldhouse a few days
14 earlier. It is not certain what was said by whom or to whom at the fieldhouse. Thus, the
15 employee initiated the confrontation described below.

16 3. The employee and this person, Mr. Shaolin Tereas, spoke on the phone
17 and agreed to meet at a quarry near Marbo Cave later that day with the intention of having a
18 confrontation.

19 4. On November 1, 2011, the employee rode in an automobile with at least
20 one other person and possibly others to said quarry knowing that a fight might ensue.

21 5. The Tereas family owns and operates said quarry and Mr. Jeffrey Tereas,
22 the oldest brother, is the manager.

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1 6. Before the employee arrived at the quarry, Mr. Jeffrey Tereas saw his
2 brother, Shaolin Tereas, waiting at the gates of said quarry with other quarry employees and
3 sent them back to work.

4 7. Later on the morning of November 1, 2011, the employee confronted Mr.
5 Jeffrey Tereas at the gates of said quarry and used foul and abusive language that could have
6 led to a fight. Mr. Jeffrey Tereas told the employee to leave the property and called the
7 Guam Police Department.

8 8. The employee then left the property. There was no physical violence and
9 no property damage.

10 9. On November 1, 2011, Jeffrey Tereas reported the incident to GPD and
11 DOC.

12 10. Internal Affairs at DOC investigated the incident and created a thorough
13 and credible report thereon that was admitted into evidence.

14 11. The employee did not co-operate with the investigation by Internal
15 Affairs, in particular by not giving them the phone number of the person or persons who
16 accompanied him to the quarry on November 1, 2011.

17 12. The employee was the subject of a restraining order because of his
18 obstreperous and threatening behavior towards a former girlfriend.

19 **IV.**

20 **CONCLUSION**

21 13. By his actions of November 1, 2011 as described above, the employee has
22 violated E.O. 96-14, Section 11.303, by refusing to perform his prescribed duties,
23 discourteously treated the public, and engaging in miscellaneous misconduct.

24 14. The Adverse Action of December 30, 2011 taken against the employee is
25 hereby upheld but modified as set forth below.

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15. In light of the policy of progressive discipline, and the fact that the employee caused no physical injury or property damage, the Commission, pursuant to 4 G.C.A. 4406, hereby reduces the suspension imposed on the employee from thirty (30) days to twenty (20) days.

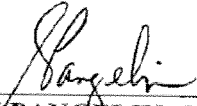
16. Except for the reduction in the suspension, the Adverse Action taken against the employee remains in full force and effect.

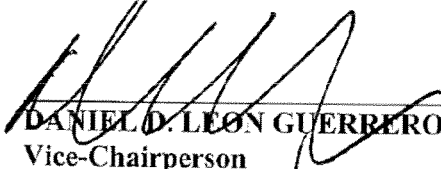
17. The Director of Corrections shall modify all documents in the employee's personnel file pertaining to the Adverse Action to conform to this judgment and shall ensure that the employee is paid for the ten (10) days of work he would have worked during the period of his suspension.


18. The Commission strongly recommends that the employee undergo Anger Management counseling.

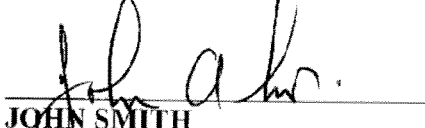
19. The Commission upheld the Adverse Action by a 6-0 vote, but pursuant to 4 G.C.A. 4406, and a 5-1 vote, reduced the period of the employee's suspension from thirty (30) days to twenty (20) days.

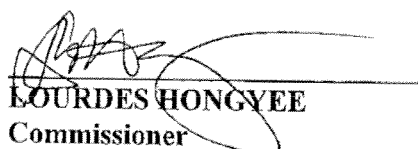
SO ADJUDGED THIS 14th DAY OF July 2016.

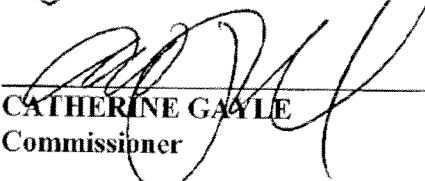

EDITH PANGELINAN
Chairperson


DANIEL D. LEON GUERRERO
Vice-Chairperson


PRISCILLA T. TUNCAP
Commissioner


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Commissioner


LOURDES HONGYEE
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