



BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS



IN THE MATTER OF:

EDDIE N. CASTRO,

Employee,

vs.

PORT AUTHORITY OF GUAM,

Management.

ADVERSE ACTION APPEAL
CASE NO.: 13-AA13T SP

JUDGMENT OF DISMISSAL

The Civil Service Commission hereby dismisses the above captioned case with prejudice pursuant to the signed Agreement to Satisfy Judgment, attached hereto.

SO ADJUDGED this 28th day of April, 2022.

JUAN K. CALVO
Chairman

ANTHONY P. BENAVENTE
Vice Chairman

PRISCILLA T. TUNCAP
Commissioner

JOHN SMITH
Commissioner

ROBERT C. TAITANO
Commissioner

JUDGMENT OF DISMISSAL

*Eddie N. Castro vs. Jose D. Leon Guerrero Commercial Port
aka Port Authority of Guam*
Adverse Action Case No.: 13-AA13T SP

AGREEMENT TO SATISFY JUDGMENT

This AGREEMENT TO SATISFY JUDGMENT is made and entered into on the date indicated below by and between EDDIE N. CASTRO ("Employee") and PORT AUTHORITY OF GUAM ("Management") and is an agreement whereby both parties release and discharge all rights, claims and demands upon the terms and conditions provided herein.

RECITALS

WHEREAS, on April 5, 2013, Management served Employee with a Notice of Adverse Action for alleged violation of the Port's Personnel Rules and Regulations, Chapter 11, Rule 11.303(B), (D), (E), and (H); and

WHEREAS, Employee filed an adverse action appeal of his termination from employment with the Port Authority of Guam at the Civil Service Commission ("CSC") in Adverse Action Appeal Case No. 13-AA13T. After twelve days of hearings on the merits, the appeal resulted in a determination in favor of Management, and modification of Employee's penalty from termination to demotion, to wit, "Guard"; and

WHEREAS, Management appealed the CSC Decision and Judgment with the Superior Court of Guam in Special Proceedings Case No. 0072-16, arguing that the CSC exceeded its statutory authority by placing Employee in the non-existing position of "Guard"; and

WHEREAS, the Superior Court found the CSC's decision to modify was not supported by substantial evidence since the "Guard" position did not exist, and the CSC's expressed decision to place Employee in the "most severe" demotion properly should have been instead to the "security guard (armed)" position, and remanded for the CSC to determine whether it would uphold its modification; and

WHEREAS, at the hearing on remand, the CSC departed from its earlier decision to modify and instead voted unanimously to sustain Employee's termination; and

WHEREAS, the Superior Court denied Employee motion to review the CSC's decision to sustain his termination, finding that the CSC's decision to sustain the termination aligned with the Superior's Court initial finding that the "Guard" position did not exist; and

WHEREAS, Employee appealed the Superior Court's decision to the Supreme Court of Guam in CVA19-020. The Supreme Court ruled in favor of the Employee, holding that the trial court should have granted Management's petition only in part, remanding to the CSC for the limited purpose of correcting the appropriate position for Employee's "severest demotion," and thus, vacated the Superior Court's decision upholding the CSC decision to terminate Employee; and

1 Exhibit A

Initial:
Initial:

WHEREAS, the Supreme Court also remanded the matter back to the Superior Court to determine attorney fees and costs consistent with the its Opinion in *Port Auth. Of Guam v. Civil Serv. Comm'n (Castro)*, 2021 Guam 4; and

WHEREAS, based on the Supreme Court of Guam's Opinion, Employee and Management desire to amicably resolve the adverse action appeal through this Agreement, and any and all claims related thereto, whether filed or unfiled, asserted or unasserted, threatened or not, known or unknown to exist without any admission of wrongdoing by any party; and

WHEREAS, the PAG Board of Directors by this agreement states the BOD's intentions of winding down all litigation against and with Employee in an effort to avoid additional costs resulting therefrom; and

NOW, THEREFORE, Employee and Management agree to end and terminate the Litigation upon the following terms and conditions:

TERMS AND CONDITIONS OF AGREEMENT

1. Employee and Management shall enter into a stipulated Judgment in furtherance of this Agreement, which shall be presented in simple form of incorporation of this Agreement by reference, but not disclosure or attachment, to be entered by the CSC, and by which Employee's appeal of the adverse action taken against Employee by Management shall be fully resolved. Notwithstanding this Agreement, Employee and Management agree that the CSC shall retain jurisdiction to enforce the Judgment. This will not impact any rights that the Superior Court will have to enforce the Judgment in SP72-16 as reflected in this agreement.
2. Management agrees to reinstate Employee to the position of Security Guard (Armed), with all benefits, rights privileges, obligations, duties and responsibilities related to such employment within the Government of Guam according to the laws of Guam and the personnel rules and regulations of the Port Authority of Guam. Employee shall be reinstated no later than April 6, 2013, up until his retirement on September 16, 2019.

The New Date of Retirement for purposes of calculating retirement benefits shall be October 11, 2021 (10/11/2021) and Eddie Castro (The Employee) shall be owed all benefits doing and owing from this readjustment.

3. Management agrees to pay Employee:
 - a. Two Hundred Eight Thousand, Three Hundred Seventy Dollars and Ninety-four Cents (\$208,370.94) in back wages owing from the date of termination to his retirement;

- b. From the back wages, Management shall deduct and make payment to the Government of Guam Retirement Fund for Employee's share of retirement fund contributions in amounts that would restore Employee to what Employee would have contributed or paid had Employee remained in employment at the Port Authority of Guam (along with Management's matching contribution). Management shall also pay appropriate Medicare contributions. Within sixty (60) days Management will provide assurance to Employee that such withheld amounts have been timely paid to the appropriate entity;
 - c. Management shall restore to Employee credit of 540, but only 320 hours shall be paid out, hours in annual leave and 1725 hours of sick leave, which represents the amount that Employee would have accrued had Employee remained in employment at the Port Authority of Guam, minus any applicable taxes;
4. Management agrees to pay Employee simple interest from April 6, 2013 at the rate of 6% per annum. This shall be paid on the 208,370.94 plus accruing interest.

As of February 28, 2022 the interest owed is \$66,700.48.
5. Management agrees to pay Employee's attorney fees and costs in the amount of Seventy Thousand Dollars (\$70,000.00), to be paid directly to the Law Offices of Gumataotao & Pole, PC;
6. Management agrees to make all payment within sixty (60) days of this Agreement being signed;
7. Employee agrees to retire from the Port Authority of Guam beginning September 16, 2019; but shall receive full benefits as reflected in this agreement of an effective retirement date of October 11, 2021 (10/11/2021).
8. Management and Employee agree that this Agreement is meant to be a full and final release of all claims by the Parties;
9. It is stipulated and acknowledged that each party hereto has read and understands the meaning of each term of this Agreement, that this Agreement is made without duress or undue influence of any kind, and that Employee and Management are aware of their respective rights, and have had a full and fair opportunity, to consult with their legal counsel or seek legal advice in negotiating, executing, and understanding the legal effect of this Release and this Agreement
10. It is intended by the parties that this Agreement is complete and shall not be subject to any claim of mistake of fact or law. This Agreement has been carefully reviewed

by all parties, each of whom has had an opportunity to participate in its drafting by making changes, additions, or deletions. This Agreement expresses a full and complete settlement of all liabilities and all claims between the parties. Other than what is specifically stated in this Agreement, no other promises of any kind have been made by any party to this Agreement, and regardless of the adequacy or inadequacy of the consideration exchanged, this Agreement is intended to avoid further litigation and to be final and complete in full.

11. Upon execution of this Agreement, Management and Employee, on behalf of themselves and of any and all natural and non-natural persons or governmental instrumentality who may succeed in respective interest of the Port or of Employee (all such parties are hereinafter collectively referred to as "Releasers") hereby mutually release any and all claims and forever discharge one another, together with each of their respective employees, agents, spouses, heirs, executors, administrators, directors, officers, insurers, successors and assigns as well as all other persons or entities (collectively "Releasees") of and from any and all legal liabilities, claims, obligations, demands, damages, actions and causes of action of every kind, arising out of or in any way connected with their employment relationship to date, including without limitation, those claims which were raised or might have been raised in the litigation of this matter, whether currently known or unknown, and whether knowable or unknowable.
12. The RECITALS stated herein are part and parcel of this Release and Agreement; and they accurately express the claims and intentions of the Parties.
13. It is agreed and stipulated by the Parties that the consideration for this Release and Agreement is a fair and reasonable settlement, and that this Release and Agreement are made in good faith.
14. Should either party bring suit in court to enforce any of the terms of this Release or this Agreement, it is agreed that the prevailing party will be entitled to reasonable attorney fees and costs.
15. Any party who has to enforce this Agreement may disclose only such parts of this Agreement as are necessary to enforce its terms.
16. If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

The undersigned are hereinafter bound to this Releases and this Agreement under the terms and conditions stated herein:

Employee

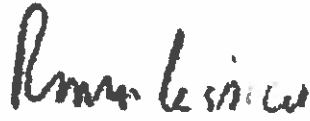
Dated: 02/24/ 2022



Eddie N. Castro


Management

Dated: 3/28/22 2022



Rory J. Respicio
General Manager, Port Authority of Guam
Authorized Representative

Approved as to form:



Atty. Christine Claveria
Port Staff Attorney
Port Authority of Guam

22-228
CIVIL SERVICE COMMISSION
9:42AM EP
-04-05 2022

1 **CHRISTINE K. CLAVERIA, ESQ.**
Attorney for Management
2 Port Authority of Guam
1026 Cabras Highway Suite 201
3 Piti, Guam 96915
Telephone: (671) 477-5931
4 Facsimile: (671) 477-2869/4445
Email: ckclaveria@portofguam.com

RECEIVED

5 **IN THE CIVIL SERVICE COMMISSION**
6 **GOVERNMENT OF GUAM**

7
8 IN THE MATTER OF:)
9 **EDDIE N. CASTRO,**)
10 Employee,)
11 vs.)
12 **JOSE D. LEON GUERRERO**)
13 **COMMERCIAL PORT aka PORT**)
14 **AUTHORITY OF GUAM,**)
Management.)

ADVERSE ACTION APPEAL
CASE NO. 13-AA13T SP

STIPULATED JUDGMENT

15 COME NOW Management-Appellee PORT AUTHORITY OF GUAM
16 ("Management"), through its GENERAL MANAGER RORY J. RESPICIO, duly authorized by
17 board of directors to enter into and execute upon agreement, and Employee-Appellant EDDIE
18 N. CASTRO ("Employee"), through counsel William B. Polc, Esq. of Gumataotao & Polc Law
19 Firm, to jointly stipulate that the terms of the Agreement to Satisfy Judgment ("Agreement")
20 between the parties shall be entered as the Judgment of the Civil Service Commission in the
21 above captioned action, which Agreement fully and with finality resolves the underlying adverse
22 action appeal by Employee against Management and the adverse action taken by Management

23 **STIPULATED JUDGMENT**

In re Eddie N. Castro v. Port Authority of Guam, CSC Case No. 13-AA13T SP
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ORIGINAL


1 against Employee. The terms of the Agreement are incorporated and included into this Stipulated
2 Judgment as Exhibit A; signed by the Real Party in Interest and the Port Authority of Guam.

3 Pursuant to Guam Supreme Court Opinion in *Port Auth. Of Guam v. Civil Serv. Comm'n*
4 (*Castro*), 2021 Guam 4, and upon remand from the Superior Court of Guam, the parties herein
5 stipulate to rescission of the adverse action against Employee and to reinstate Employee to
6 employment with the Port Authority of Guam as provided in the Agreement according to its
7 terms. The parties further stipulate that the Settlement Agreement fully and with finality resolves
8 the underlying adverse action appeal but that the Commission shall retain jurisdiction to enforce
9 the parties' respective rights under the Agreement, should such circumstance arise.

10 SO STIPULATED:

11 Employee: EDDIE N. CASTRO
12 GUMATAOTAO & POLE LAW FIRM

Management: PORT AUTHORITY OF GUAM

13 
14 _____
15 William B. Pole, Esq.

16 
17 _____
18 Rory J. Respicio
19 General Manager

20 
21 _____
22 Christine K. Claveria, Esq.
23 Attorney for Management

STIPULATED JUDGMENT

In re Eddie N. Castro v. Port Authority of Guam, CSC Case No. 13-AA13T SP

1 **JUDGMENT OF THE CIVIL SERVICE COMMISSION**

2 THIS MATTER coming before the Civil Service Commission based on the Agreement
3 of the parties set forth above and for good cause therein shown, the Civil Service Commission
4 hereby enters Judgment rescinding the adverse action taken against Employee EDDIE N.
5 CASTRO and incorporating the terms of the parties' Agreement into this Judgment. This
6 Judgment fully and with finality resolves the adverse action appeal filed by Employee. The Civil
7 Service Commission retains jurisdiction to enforce the parties' Agreement should such
8 circumstance arise.

9 **SO ORDERED** this ____ of April 2022.

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13 _____
14 **JUAN K. CALVO, Chairman**

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14 **JOHN A. SMITH, Vice Chairman**

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16 _____
17 **PRISCILLA T. TUNCAP**
18 Commissioner

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16 _____
17 **ANTHONY P. BENAVENTE**
18 Commissioner

18
19 _____
20 **ROBERT C. TAITANO**
21 Commissioner

22
23 **STIPULATED JUDGMENT**

In re Eddie N. Castro v. Port Authority of Guam, CSC Case No. 13-AA13T SP