

UNDT/2013/080, Austin

UNAT Held or UNDT Pronouncements

The Applicant is “not contest[ing] the proportionality of the sanction(s) imposed”. Consequently, the Tribunal need only consider if not reporting another staff member’s violation ST/SGB/2004/15 was correctly considered by the Respondent as being the Applicant’s misconduct, whether his due process rights were respected and whether all the mitigating circumstances were taken into account. There is no evidence before the Tribunal that the Applicant requested, and was denied, either access to counsel or further opportunities to defend himself during the investigation conducted by OIOS. With regard to mitigating circumstances, the Applicant’s submission that he was not aware of some of the applicable regulations and rules bears no relevance as to whether he could be charged as having breached the said regulations and rules as ignorance of the law is not a defense. Upon a staff member’s misconduct having been established, the Respondent has a broad discretion in deciding on the appropriate and most proportionate disciplinary measure(s) to apply even though this discretion is not without limit. The Tribunal finds that the Applicant’s due process rights were respected and that the disciplinary measures that were applied against him were lawful, proportional and were taken in accordance with the regulations and rules and considering all mitigating circumstances.

Decision Contested or Judgment/Order Appealed

The Applicant contests the decision to impose on him the disciplinary sanction of a written censure, a loss of two steps in grade, and a deferral for two years of his eligibility for salary increment following conduct that was determined to not be in accordance with the provisions of the ST/SGB/2004/15.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Austin

Entity

OHRM

Case Number(s)

UNDT/NY/2011/026

Tribunal

UNDT

Registry

New York

Date of Judgement

22 May 2013

Duty Judge

Judge Greceanu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Investigation

Due process

Applicable Law

Former Staff Rules

- Rule 110.3

Secretary-General's bulletins

- ST/SGB/2004/15
- ST/SGB/2008/4

UNDT Statute

- Article 8

Related Judgments and Orders

UNDT/2009/072

UNDT/2011/115

UNDT/2012/061

UNDT/2012/163

2010-UNAT-018

2010-UNAT-067

2010-UNAT-094

2010-UNAT-095