

2012-UNAT-263, Larkin

UNAT Held or UNDT Pronouncements

UNAT considered an appeal of judgment No. UNDT/2011/179. UNAT held that the Appellant had failed to demonstrate that UNDT erred in finding that there was no evidence of a conflict of interest or prejudice to his case. UNAT noted that UNDT has broad discretion to determine the admissibility of any evidence under Article 18.1 of the UNDT RoP and that it had exercised its discretion in deciding not to admit the evidence because it lacked probative value. UNAT held that UNDT had correctly found there were no meaningful indicia of a conflict of interest involving the Chief of OSLA regarding the Appellant's case. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision taken by the Chief of the Office Staff Legal Assistance (OSLA) not to disclose a conflict of interest. UNDT dismissed the application. UNDT found that the alleged omission forming the basis of the application was not an administrative decision subject to review by UNDT. On appeal, UNAT rendered judgment No. 2011-UNAT-135, in which it found that the contested decision not to disclose a potential conflict of interest could have an impact on the Applicant's terms of employment and, therefore, constituted an administrative decision subject to review by UNDT. The case was remanded to UNDT for trial on the merits. UNDT subsequently issued judgment No. UNDT/2011/179, in which it found that the Chief of OSLA had not been in any manner involved, while working with UNHCR, in the managerial decisions that the Applicant sought to challenge. UNDT found, accordingly, that there was no conflict of interest involving the Chief of OSLA and dismissed the application.

Legal Principle(s)

The appeals procedure is of a corrective nature and, thus, is not an opportunity for a party to reargue his or her case. A party cannot merely repeat on appeal arguments that did not succeed before UNDT. Rather, he or she must demonstrate that UNDT has committed an error of fact or law, warranting intervention by UNAT.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Larkin

Entity

UNHCR

Case Number(s)

2011-281

Tribunal

UNAT

Registry

New York

Date of Judgement

1 Nov 2012

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Evidence

Admissibility

Legal services (OSLA or other) and self-representation

Legal representation

Applicable Law

UNDT RoP

- Article 18.1

UNDT Statute

- Article 2.1

Related Judgments and Orders

UNDT/2011/179

2010-UNAT-035

2011-UNAT-110