

# **2013-UNAT-295, Powell**

## UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that UNDT was correct to find that there was no breach of Mr Powell's due process rights at the preliminary investigation stage. UNAT held that UNDT manifestly erred in fact and in law by finding that the investigations conducted by the Board of Inquiry (BOI) and the Sexual Exploitation and Abuse (SEA) Team were final investigations and by then attaching due process rights that were pertinent only after the initiation of disciplinary proceedings. UNAT allowed the appeal, set aside the UNDT findings in paragraphs 86 and 106 of the UNDT judgment that the investigations conducted by the BOI and SEA Investigation Team constituted final investigations attaching the due process rights enumerated by UNDT, and set aside the UNDT award of compensation in paragraph 131 of the UNDT judgment of one year's net base salary for breaches of Mr Powell's due process rights.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to demote him by one level with no possibility of promotion for two years for misconduct. UNDT found for the Applicant and awarded compensation.

## Legal Principle(s)

During the preliminary investigation stage, only limited due process rights apply.

## Outcome

Appeal granted in part

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Powell

## Entity

MONUC

## Case Number(s)

2012-327

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

28 Mar 2013

## President Judge

Judge Chapman

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Disciplinary matters / misconduct

Investigation (see category: Investigation)

Sexual exploitation and abuse

Due process

Investigation

Due process

## Applicable Law

Administrative Instructions

- ST/AI/371

Former Staff Rules

- Rule 110.4(a)

## Related Judgments and Orders

UNDT/2012/039

2012-UNAT-209