

# **2015-UNAT-510, Cobarrubias**

## UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that the sanction imposed on Mr Cobarrubias was not unreasonable, absurd or disproportionate. UNAT held that it was a reasonable exercise of the Administration's broad discretion in disciplinary matters, with which it would not lightly interfere. UNAT held that UNDT erred in finding the sanction disproportionate and in substituting its opinion for that of the Administration. UNAT vacated the UNDT judgment.

## Decision Contested or Judgment/Order Appealed

Mr Cobarrubias contested the decision to impose upon him the disciplinary measure of separation from service, with compensation in lieu of notice and without termination indemnity, for misconduct in the form of storing emails containing pornographic, violent and otherwise inappropriate material. UNDT found that the alleged facts had been established but concluded that the sanction was disproportionate and substituted it for a lesser sanction.

## Legal Principle(s)

It is not the role of the Tribunal to substitute its own decision for that of the Secretary-General.

## Outcome

Appeal granted

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Cobarrubias

## Entity

DM

## Case Number(s)

2014-582

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

26 Feb 2015

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Disciplinary matters / misconduct

Dismissal/separation

Misuse of information and communication technology resources

Separation from service

Termination of appointment (see also, Termination of appointment)

Termination (of appointment)

Disciplinary sanction

## Related Judgments and Orders

UNDT/2013/164

2013-UNAT-374

2010-UNAT-084

2010-UNAT-092