

2015-UNAT-550, Mizyed

UNAT Held or UNDT Pronouncements

UNAT held that the evidence against the Appellant uncovered by the investigation was so overwhelming that the only reasonable conclusion available to UNDT was that the facts were established by clear and convincing evidence. Noting that the evidence that he was in possession of the stolen card and that he used it to refuel his own private vehicle was not contested by the Appellant, UNAT held that his explanation of how he came into possession of the stolen card and how he came to use it was incapable of belief. UNAT agreed with the finding of UNDT that the established facts amounted to serious misconduct. UNAT held that the Appellant violated his obligation to uphold the highest standard of integrity and that, since UNDT properly found that the facts amounting to misconduct were established, the Administration had shown serious misconduct on the part of the Appellant. UNAT agreed with the UNDT's finding that the sanction was proportionate. Noting that the Administration did not impose the most severe sanction of summary dismissal, UNAT held that the lesser sanction of separation from service with compensation in lieu of notice and without termination indemnity should be upheld. UNAT held that there was no evidence that the Appellant's rights were infringed in any way during the investigation and UNAT agreed with UNDT's finding that there was no merit in the Appellant's argument that the investigation was procedurally defective. UNAT held that UNDT's failure to specifically refer to the closing statement did not have any effect on the outcome of the case, as those arguments were without merit. UNAT held that the Appellant, while raising several claims of procedural error by UNDT, failed to demonstrate how the alleged errors prejudiced him or violated his due process rights. UNAT held that, even assuming, arguendo, that such errors occurred, none of them would be a ground to reverse the UNDT judgment. UNAT held that the Appellant failed to meet his obligation of satisfying UNAT that the judgment was defective in that he failed to establish any errors of law, fact or procedure warranting a reversal of the judgment. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested his separation from service for misconduct in the form of misappropriating a duty-free gasoline card and using it to refuel his private vehicle. UNDT dismissed the application.

Legal Principle(s)

It is not necessary for any court, whether a trial or appellate court, to address each and every claim made by a litigant, especially when a claim has no merit.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Mizyed

Entity

UNTSO

Case Number(s)

2014-634

Tribunal

UNAT

Registry

New York

Date of Judgement

2 Jul 2015

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Disciplinary measure or sanction

Theft and misappropriation

Separation from service

Termination of appointment (see also, Termination of appointment)

Termination (of appointment)

Disciplinary sanction

Applicable Law

Staff Regulations

- Regulation 1.2(b)

Staff Rules

UNAT Statute

- Article 18.1

Related Judgments and Orders

UNDT/2014/060

2010-UNAT-051

2015-UNAT-511

2013-UNAT-309

2013-UNAT-328

2013-UNAT-292