

# 2017-UNAT-809, Mbaa

## UNAT Held or UNDT Pronouncements

UNAT held that there was no basis for receiving the Appellant's motion for additional pleadings (such as exceptional circumstances), that the motion raised no new or compelling arguments and, accordingly, dismissed the motion. UNAT held that UNDT correctly concluded that the application was time-barred and not receivable as a result of the Appellant's failure to file his application within the established time limits. UNAT noted that the Appellant had been provided two opportunities to make his case before UNDT and on both occasions, he failed to provide the information. UNAT held that failing to provide the information to UNDT, and then seeking to provide UNAT with an explanation for the delay, amounted to an attempt to have a de novo hearing of his application. UNAT held that the Appellant failed to satisfy the requirements of Article 2(1) of the UNAT Statute and he had not identified any errors or failure of jurisdiction by UNDT to warrant reversal of the judgment. UNAT dismissed the appeal and affirmed the UNDT judgment.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the disciplinary measure of separation from service, with compensation in lieu of notice but without termination indemnity, which was imposed for misconduct in the form of attempted theft. UNDT found that the application was not receivable because it was time-barred as a result of the Applicant's failure to file his application within the established time limits and more than one year after the statutory deadline.

## Legal Principle(s)

It is not the function of UNAT to hear a de novo application.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Mbaa

## Entity

UNMISS

## Case Number(s)

2017-1095

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

27 Oct 2017

## President Judge

Judge Murphy

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Temporal (ratione temporis)

## Applicable Law

Other UN issuances (guidelines, policies etc.)

- UNAT Practice Direction No.1

Staff Rules

- Rule 11.2(b)

UNAT RoP

- Article 18.1

UNAT Statute

- Article 2.1
- Article 8.3

UNDT Statute

- Article 8.1(d)(ii)

## Related Judgments and Orders

UNDT/2017/047