

2019-UNAT-975, Reilly

UNAT Held or UNDT Pronouncements

UNAT held that the Appellant did not meet her burden of proving that UNDT clearly exceeded its jurisdiction or competence when it reassigned the cases. UNAT held that the UNDT decision on assignment and reassignment of judges are matters of case management and the fair and efficient functioning of the tribunal's processes and within the UNDT's jurisdiction. UNAT held that there had been no removal or replacement of Judge Downing, but rather that his term had expired. UNAT held that UNDT did not clearly exceed its jurisdiction and the appeals were not receivable. UNAT also noted that it does not have the authority to order the UNAT to reassign or reinstate judges. UNAT dismissed the appeals and affirmed both UNDT Orders.

Decision Contested or Judgment/Order Appealed

The Applicant submitted three applications to UNDT. One was adjudicated by Judge Downing. Prior to judgment being issued on the second and third applications, they were assigned to a new judge (Judge Bravo). Judge Bravo issued case management or interlocutory order (Order No. 54 (GVA/2019)) and Order No. 55 (GBA/2019). In the Orders, Judge Bravo notified the parties of the reassignment and proposed a course of action, allowing the parties to raise any objections. The Applicant objected and appealed the Orders to UNAT on the basis that the removal of a sitting judge exceeded UNDT's jurisdiction and was a reviewable and correctable error.

Legal Principle(s)

The Appellant has the onus of proving that UNDT clearly exceeded its jurisdiction or competence. Decisions of UNDT on the assignment or reassignment of cases to a judge are a matter of case management and as such, within the jurisdiction of UNDT. In the statutory interpretation of a legislative provision such as a GA resolution, the words of a legislative provision are to be read in their entire context,

in their grammatical and ordinary sense, harmoniously with the scheme and object of the legislation, and the intention of the legislature.

Outcome

Appeal dismissed on receivability

Full judgment

[Full judgment](#)

Applicants/Appellants

Reilly

Entity

OHCHR

Case Number(s)

2019-1301

2019-1302

Tribunal

UNAT

Registry

New York

Date of Judgement

25 Oct 2019

President Judge

Judge Sandhu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Interlocutory or interim appeal / Appeal of UNDT order to UNAT

Manifest excess of jurisdiction

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

GA Decisions

- 73/408C

GA Resolutions

- A/RES/63/253
- A/RES/67/241
- A/RES/73/236

UNAT Statute

- Article 2.1
- Article 9

UNDT Statute

- Article 4.5

Related Judgments and Orders

2010-UNAT-060

2010-UNAT-005

2010-UNAT-008

2010-UNAT-011

2010-UNAT-062