

2020-UNAT-1054, Ross

UNAT Held or UNDT Pronouncements

On the Applicant's claim that UNDT committed an error of procedure by not allowing him to submit an affidavit from his former supervisor, UNAT held that UNDT properly exercised its broad discretion under Article 18(1) of its Rules of Procedure in determining the admissibility as well as the evidentiary value and weight of the proffered affidavit. UNAT held that UNDT's conclusions were consistent with the evidence. UNAT held that the Appellant did not meet the burden of proof for demonstrating an error in the judgment such as to warrant its reversal. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to select him for a job opening. UNDT found that he had been given full and fair consideration during the selection process. UNDT did not find evidence that the decision was manifestly wrong, arbitrary, or otherwise unreasonable, and concluded that the Applicant did not have a foreseeable and significant chance for selection. UNDT dismissed the application without merit.

Legal Principle(s)

The Secretary-General has broad discretion in matters of staff selection. Whether a non-selected candidate can meet his burden to show that he did not receive full and fair consideration for a job opening depends mainly on the evidence the Administration reviewed in making the selection decision, not evidence outside the record of which the Administration was not aware. The presumption of regularity accorded to the challenged administrative act is not rebutted by simply satisfying the balance of evidence standard, which is a lesser standard of proof than clear and convincing evidence. The appeals procedure is of a corrective nature and not an

opportunity for a dissatisfied party to reargue his case. An Appellant has the burden of satisfying UNAT that the judgment he or she seeks to challenge is defective; an appellant must identify the alleged defects in the impugned judgment and state the grounds relied upon in asserting that the judgment is defective.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Ross

Entity

UNHCR

Case Number(s)

2020-1363

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Oct 2020

President Judge

Judge Raikos

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Applicable Law

Staff Regulations

- Regulation 1.2(c)
- Regulation 4.1

UN Charter

- Article 101.1

UNAT Statute

- Article 18.1

Related Judgments and Orders

UNDT/2019/173

2018-UNAT-849

2018-UNAT-870

2017-UNAT-762

2018-UNAT-829

2017-UNAT-771

2017-UNAT-802

2011-UNAT-122