

2020-UNAT-994, Rodriguez

UNAT Held or UNDT Pronouncements

UNAT dismissed the Appellant's motion to file additional pleadings on the basis that there were no exceptional circumstances to justify the filing. On the merits, UNAT held that the UNDT calculation of the three-time periods of participation in the contributory health insurance plan was not correct. However, UNAT held that even the correct calculation did not result in the required 10 years of participation, but only 9 years, 10 months, and 14 days. Turning to consider the period of 11 May to 30 June 2009, UNAT held that a staff member who had expressly conceded in her application that a certain time period did not count for the calculation of his or her participation in the health insurance plans could not, on appeal, request that that very time period should count. UNAT held that a party was not permitted to assert his or her own failure to present an argument at first instance as a ground of appeal to say that UNDT was in error. UNAT held that, under the relevant provisions, the period of 11 May to 30 June 2009 did not count towards the calculation of the Appellant's participation in order to establish eligibility for ASHI because the Appellant served under an Appointment of Limited Duration (ALD), not the required 100- or 200-series appointment. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The staff member contested the decision by the Administration to find her ineligible to enrol in After-Service Health Insurance (ASHI). UNDT dismissed the application.

Legal Principle(s)

A party is not permitted to assert his or her own failure to present an argument at first instance as a ground of appeal to say that UNDT was in error.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Rodriguez

Entity

UNOPS

Case Number(s)

2019-1305

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Mar 2020

President Judge

Judge Knierim

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Health (medical) and/or dental insurance

United Nations Joint Staff Pension Fund (UNJSPF)

ASHI (After-Service Health Insurance)

Applicable Law

Administrative Instructions

- ST/AI/2007/3

Other UN issuances (guidelines, policies etc.)

- UNAT Practice Direction No.1

UNAT RoP

- Article 3.1

Related Judgments and Orders

UNDT/2019/105