

**COUNTY OF SANTA BARBARA
CIVIL SERVICE COMMISSION**

HEARINGS (APPEALS) 2006-2007

NOTE: ** indicates that limited information is presented on summaries concerning a peace officer.

<u>Appellant/Title</u>	<u>Dates</u>	<u>Issue(Rule)</u>	<u>Disposition</u>
E. DAVIS- LINDSEY v. SHERIFF'S DEPT.	07/20/06 (1212 & 08/17/06 09/21/06 10/19/06 11/16/06 12/06/06	Termination (1203 b)	Case carried forward from prior year. Hearing Officer Micon recommended rescheduling the hearing to 09/15/06. Commissioners confirmed the September 15 th hearing date. Hearing rescheduled to 11/17/06. Commissioners confirmed the November 17 th hearing date. Hearing rescheduled for 12/05/06 as requested by the HO. The matter is resolved; hearing cancelled.

A. KENNEDY v. CLERK OF THE BOARD	07/20/06	Termination (911)	Commission Counsel Lavayen reviewed the jurisdiction question and advised that the employee was on probationary status at the time of termination and, under the Civil Service Rules, does not have the right to appeal that action. The request for an appeal was denied.

D. ROSSELL v. DEPT. of SOCIAL SERVICES	08/17/06 09/21/06	Non-Disciplinary Separation (1103)	Hearing Officer Voorhis recommended a one-month continuance. The Commissioners reviewed the issue of whether there is a right to a "full-blown" hearing for a Non-Disciplinary Separation when no discrimination complaint is presented. Commission Counsel Lavayen said CS Rule 1103 does reference the right to an appeal and 10 such appeals were filed since 1990. Therefore, the interpretation that the employee has a right to a hearing is consistent with past practice. Commission notified that the matter has been resolved.

HEARINGS/APPEALS (Cont.)

<u>Appellant/Title</u>	<u>Dates</u>	<u>Issue/Rule</u>	<u>Disposition</u>
**J.H. v. SHERIFF'S DEPT.	09/21/06		Hearing Officer Bonham recommended and the Commissioners agreed to continue the matter to October for scheduling the hearing.
	10/19/06		Commissioners granted a further continuance to the November meeting.
	11/16/06		The Appellant requested a continuance to 01/18/07 for scheduling the hearing which was opposed by the department. The Commissioners set the hearing for January 11 th and 12 th , 2007.
	01/18/07		Closed session to review progress report from Hearing Officer and to schedule any pre-hearing motions including Appellant's Petition to Compel Discovery. Commission Decision: A ruling on this petition is postponed until the civil service case is set for hearing which will be after the completion of the criminal trial on this matter.
	06/21/07		Notice of Hearing on Appellant's Petition for Writ of Mandate is received. Case carries forward to next Fiscal Year.

**J.R. v. PROBATION DEPT.	10/19/06		Commissioners agreed with Hearing Officer O'Neill's recommendation for a continuance to the November meeting.
	11/16/06		Commissioners set the hearing for January 18, 2007
	01/18/07		Hearing cancelled; parties stipulated to a continuance.
	03/15/07		The hearing date rescheduled to March 15, 2007.
	04/19/07		Hearing held. Commissioners reach agreement on factual issues, but no decision is issued. Closed session set for May 17 th on legal issues.
	05/17/07		Appellant's request for a continuance on filing a post-hearing brief was noted; case continued to May 17 th for scheduling a closed session on it.
	06/21/07		Hearing Officer reported that the post-hearing brief does not explore any new legal issues and is available to the Commissioners for their review. Commissioners reviewed the draft decision in closed session. Case carries forward to next Fiscal Year.

HEARINGS/APPEALS (Cont.)

<u>Appellant/Title</u>	<u>Dates</u>	<u>Issue/Rule</u>	<u>Disposition</u>
**M. E. v. PROBATION DEPT.	01/18/07 02/15/07 03/15/07 03/21/07		Commissioners reviewed Hearing Officer Micon's progress report and set a two-day hearing for March 22 nd and 23 rd . Commissioners confirmed the hearing schedule. Hearing schedule start time changed to 10:30 a.m. on March 22 nd . Matter is settled; hearing cancelled.

L. NOBLE v. DEPT. OF SOCIAL SERVICES	01/18/07 02/15/07 03/15/07 04/10/07 05/29/07 06/21/07	Termination (1203)	Commissioners reviewed Hearing Officer Bonham's initial progress report. Case continued to February 15th to allow time for SEIU, Local 535, to obtain legal counsel for the employee. Commissioners set the hearing for April 10 th at 9:00 a.m. Hearing schedule is revised to start at 9:30 a.m. on April 10 th . Hearing held. The decision stated that the appointing authority did not use progressive discipline and that the punishment of termination was excessive in this case. The Commissioners reinstated the employee with back pay and allowances except for a 60-day suspension without pay that began on 12/30/06 and directed that Ms. Noble receive a written reprimand which will be placed in her personnel file. Letter from Susan Paul, Assistant CEO/Human Resources Director, is received requesting that the Commissioners provide the facts and evidence upon which their findings in this case were based and the reasoning that led the Commissioners to conclude that the punishment of termination was excessive. The Commissioners reviewed the letter from Ms. Paul and the request from Alan Crowley, Attorney at Law, that the matter be reset to a later date to allow for the Appellant's response to Ms. Paul's letter. Commissioners schedule a special meeting for July 6, 2007. Case carries forward to next Fiscal Year.

HEARINGS/APPEALS (Cont.)

<u>Appellant/Title</u>	<u>Dates</u>	<u>Issue/Rule</u>	<u>Disposition</u>
D. BAKER v. ADMHS	01/18/07	Suspension (1209)	Commissioners reviewed the initial progress report from Hearing Officer Voorhis and set the hearing for February 15, 2007. Employee withdraws the appeal request; hearing cancelled.
J. PLACENCIA v. PUBLIC WORKS DEPT.	02/15/07 03/15/07 04/19/07 05/14/07	Demotion (1211)	Commissioners reviewed Hearing Officer O'Neill's initial progress report and continued the matter to March 15th to allow time for Local 620, SEIU, to obtain legal counsel for the employee. Commissioners reviewed progress report and set the hearing for May 17th at 10:30 a.m. Hearing schedule confirmed. Case settled; hearing cancelled.
P. BEEMAN v. PUBLIC DEFENDER	11/16/06 01/18/07	Probationary period following promotion (912)	Commissioners granted Appellant's request for a one-month continuance to allow time to obtain legal counsel. Deputy County Counsel M. Novatt stated that the department was not submitting to jurisdiction on this appeal and will argue against it at the Commission's January meeting. <u>SEE ALSO REQUESTS FOR INVESTIGATION.</u> <u>Employee's position.</u> Ms. Beeman represented herself and said she had served two days past a year when the Public Defender released her from her Business Manager II position and therefore she had achieved permanent status and was entitled to an appeal hearing. <u>County's position.</u> Ms. Beeman was released during the probationary period after she had been promoted to a Business Manager II level. The Commissioners agreed that there was some confusion concerning the Business Manager I and II classifications and asked the County to submit a brief establishing why there is no jurisdiction to hear an Appeal. The Commissioners continued the matter to February 15th.

HEARINGS/APPEALS (Cont.)

<u>Appellant/Title</u>	<u>Dates</u>	<u>Issue/Rule</u>	<u>Disposition</u>
P. BEEMAN v. PUBLIC DEFENDER (Cont.)	02/15/07	Probationary period following promotion (912)	<p>The jurisdiction question was reviewed in detail.</p> <p><u>Employee's position.</u> Ms. Beeman said she was hired as the Business Manager for the Public Defender and did the same work for the total period she worked there -- one year and two days. She said she was "upgraded" to the Business Manager II level after receiving a high rating on her performance review after nine months on the job.</p> <p><u>County's position.</u> The employee was hired as a Business Manager I "underfilling" the department's allocated Business Manager II position using CS Rule 916, <i>Appointment to Underfill an Authorized Position</i>. She was promoted to Business Manager II nine months later and began a new one-year probation which she did not complete.</p> <p><u>Commission Decision.</u> The Commissioners noted that Ms. Beeman was hired to do the department's Business Manager work and held the position beyond one year and therefore had a right to an appeal. The Commission found that Ms. Beeman had achieved permanent status and that the Commission had the basis and jurisdiction for an appeal. The Respondent's Petition for Rehearing was reviewed in detail.</p> <p><u>County's position.</u> The department believes it is very clear that Ms. Beeman had not completed either of the probationary periods, was not permanent in her position, and therefore is not able to appeal her rejection. The department disagrees that the job Ms. Beeman was doing when she was hired as a Business Manager I was the same as the Business Manager II position. She was given added responsibilities and duties after July of 2006, e.g. supervising clerical/secretarial staff.</p> <p><u>Employee's position.</u> The employee should not bear the burden of an ambiguity in the Rules as to what "specific allocation" means and what underfilling at a lower level classification means. Ms. Beeman did finish her probationary period and cause is required to terminate her.</p>
	03/15/07		

HEARINGS/APPEALS (Cont.)

<u>Appellant/Title</u>	<u>Dates</u>	<u>Issue/Rule</u>	<u>Disposition</u>
P. BEEMAN v. PUBLIC DEFENDER (Cont.)	03/15/07 (Cont.)	Probationary period following promotion (912)	<u>Commission Decision.</u> There was only one Business Manager position in this department and the employee was hired as a Business Manager I doing the job of a Business Manager II with a probationary period of one year in the only Business Manager position the department had regardless of the fact of “underfilling” and of the pay increase. <u>Motion.</u> MSC(Solomon/Mariscal) to deny the Petition for Rehearing. The Commissioners set the hearing for Tuesday, May 8 th at 9:30 a.m.
	04/19/07		The Commission’s Agenda included a review of the Decision and Order on the Respondent’s Petition for Rehearing, but the item was continued one month to ensure that all Commissioners would be present.
	05/17/07		The Commissioners reviewed the wording of the Decision and Order in detail and revised it to read: “Because Ms. Beeman was appointed to perform the duties of a Business Manager II, her probationary period began upon her appointment as an underfill to the Business Manager II position allocated to the Public Defender’s Office.” & “That Ms. Beeman was therefore appointed to the Business Manager II position as an underfill under Rule 916 and was paid as a Business Manager I to perform the duties of a Business Manager II.”
	06/21/07		The Commissioners set the hearing for July 19 th at 10:30 a.m. The Hearing Officer’s letter reported that the department is not pursuing a Writ of Mandamus on the Commission’s Decision and Order on the jurisdictional issue and a pre-hearing conference will be scheduled with the parties who are also in negotiations to reach a settlement. The Commissioners agreed to keep the July 19 th hearing on calendar. The case carries forward to the next Fiscal Year.

DISCRIMINATION COMPLAINTS 2006-2007

<u>Appellant/Title</u>	<u>Dates</u>	<u>Issue/Rule</u>	<u>Disposition</u>
C. PONCE v. SOCIAL SERVICES DEPT.	05/24/07 06/21/07	DiscriminationLetter filed with Commission Office appealing the conclusions of the Complaint (1304 & 508)	investigation by County Counsel's Office on Appellant's complaint filed with the Affirmative Action Officer on 10/31/2006. The Commissioners reviewed the request letter, concluded that it presented enough facts to raise a <i>prima facie</i> case and that they needed more information. The appeal request was granted and the hearing date was tentatively set for 08/16/2007. Case carries forward to next year.

REQUESTS FOR INVESTIGATION 2006-2007

<u>Appellant/Title</u>	<u>Dates</u>	<u>Issue/(Rule)</u>	<u>Disposition</u>
P. BEEMAN v. PUBLIC DEFENDER	11/16/06 01/18/07 02/15/07	Administra- tion of personnel (1305)	NOTE: The case was filed as a request for an appeal hearing from Appellant's release from a Business Manager II position in the Public Defender's Office during a promotional probationary period and, in the alternative, as a request for an investigation under Rule 1305 in the event the Commission determined that it does not have jurisdiction to grant an appeal. The Commissioners granted Appellant's request for a continuance to the January 18 th meeting. Continued to February 15, 2007. A motion to table the request for an investigation was made by Vice Chairman Solomon and seconded by Commissioner Donerson. The motion passed unanimously. Case carries forward to next year.

S U M M A R Y – 2006-07

PENDING AS OF June 30, 2007 4 DISCIPLINARY APPEALS (J. H., J. R., Noble and Beeman)

9 NEW DISCIPLINARY APPEALS FILED Kennedy, Rossell, J.H., J.R., M.E., Noble, Baker, Placencia and Beeman

2 HEARING DAYS (L. Noble v. DSS and J. R. v. Probation)

1 Hearing held with department action upheld (J. R. v. Probation).

1 Hearing held with department action modified. Employee is reinstated with a 60-day suspension and a letter of reprimand.
(L. Noble v. DSS)

4 Settlements reached by the parties without a hearing (Davis-Lindsey, Rossell, M. E., and Placencia) NOTE: Davis-Lindsey filed in FY 2005-06.

1 Appeal withdrawn by employee (Baker)

1 Appeal request denied (Kennedy)

1 Petition for Writ of Mandamus filed by Appellant (J. H. v Sheriff's Dept.)

1 Petition for Writ of Mandamus filed by Respondent (L. Noble v. DSS)

1 DISCRIMINATION COMPLAINT FILED WITH THE COMMISSION (C. Ponce v. DSS) PENDING AS OF June 30, 2007

1 NEW REQUEST FOR INVESTIGATION FILED (Beeman: Filed on 11/16/06; tabled on 02/15/07)

In FY 2006-07, continuing their interest in the 2004-05 investigation of classification issues, the Commissioners received briefings and periodic updates on topics related to the County's classification and compensation system including the Leadership Project and the Human Resources Restructure Project.

On 07/20/2006, Susan Paul, Assistant CEO/Human Resources Director, gave a presentation on "Leadership Project: Linking Employee Performance to Customer Service and Business Results." The Commission formed an Ad Hoc Committee of two members to review Civil Service rule changes related to the implementation of the project and report back to the Commission. Reports were presented at the August, September, and October meetings. Extended Public Comment on the Leadership Project and the proposed Civil Service Rule changes to implement it was taken at the September and October meetings. (See the last section of this report titled Civil Service Rule changes for FY 2006-07.)

S U M M A R Y - 2006-07 (Cont.)

On 06/21/2007, Ms. Paul reported that this project's classification and compensation system had been put in place, training on performance management to all executives and managers was being provided, and the first pay decisions are due in January, 2008.

At the January, 2007 meeting, Theresa Duer, Deputy Director, CEO/Human Resources Department, presented an update on the Human Resources Restructure Project to develop a more modern, responsive and customer-focused HR management system. The Commissioners indicated their interest in this project but did not schedule any update reports on it in this Fiscal Year.

SUMMARY – ACTIVITY FOR THREE PRIOR YEARS

2005-2006 7 new Appeals filed (Cruz, Sarquilla, Joughin, Duarte, Nix, Flores, Davis-Lindsey).

5 Hearing Days (Marino, Hample, Mathews and Lopez) NOTE: All of these cases were originally filed in FY 2004-2005.

1 Hearing held with department action upheld (Marino).

2 Hearings held with department action modified by vacating the two-day suspensions and directing that reprimands be issued in each case (Hample and Mathews)

1 Hearing convened to record the settlement between the parties (Lopez)

7 Settlements reached by the parties without a hearing (Tieso, Bray, Sarquilla, Lopez, Duarte, Nix and Flores) NOTE: Tiesa and Bray filed in FY 2004-2005.

2 Appeals withdrawn by employees (Cruz and Joughin)

1 Appeal carried forward to next Fiscal Year (Davis-Lindsey)

NO DISCRIMINATION COMPLAINTS FILED; NO REQUESTS FOR INVESTIGATION FILED.

2004-2005 11 new Appeals filed (Hanson, King, Mathews, Marino, Trombella, B. Smith, Tieso, Hample, Madden, Bray and Lopez) and 1 New Discrimination Complaint filed (Buckingham).

1 Hearing Day (Hanson).

1 Hearing held with department action upheld (Hanson).

2 Settlements reached by the parties without a hearing (King and Madden).

2 Appeals withdrawn by employees (Trombella and B. Smith).

SUMMARY – ACTIVITY FOR THREE PRIOR YEARS (CONT.)

2004-2005 (Cont.)

- 1 Appeal request to schedule a hearing denied. (Request from A.Tesar denied based on equitable doctrine of laches. Appeal initially filed in July, 1994 and off calendar in December, 1994 by agreement to allow employee to pursue her workers' compensation action.)
- 1 Discrimination Complaint request for a hearing denied based on lack of standing as complaint was filed after the employee had resigned from County service (Buckingham).
- 1 Investigation was conducted by the Commission on classification issues at their meetings in August, September and December in 2004 and in February 2005. The investigation concluded without any findings or recommendations, but with a request for updates from Human Resources on the broad topic of the County's classification and compensation system.
- 4 Requests for Investigation filed (Arnoldi, Buckingham, Backus and Donaghy); all were denied. No investigation days.
- 6 Appeals carried forward to next Fiscal Year (Mathews, Marino, Tieso, Hample, Bray and Lopez).

2003–2004 11 new Appeals filed (McPherson, Barajas, Osuna, Wuest, Layman, DeLarvin, E. Hernandez, Trotter, Wiggins, Perkins and Thompson) and 2 New Discrimination Complaints filed (Bolduc and Bauman)

- 4 Hearing Days (Whyte, Brenner, Trotter and E. Hernandez NOTE: Whyte & Brenner were from prior year.)
- 4 Hearings held with department action upheld (Whyte, Brenner, Trotter and Hernandez)
- 1 Appeal withdrawn by employee (Wuest)
- 1 Appeal dismissed with prejudice (Wiggins)
- 4 Appeals settled without hearing (Barajas, Osuna, Layman and DeLarvin)
- 2 Appeals carry forward to next Fiscal Year (Thompson and Perkins)
- 2 Discrimination Complaint Requests withdrawn (Bolduc and Bauman)
- 2 New Requests for Investigation filed (J.Guzzardi and D. Johnson). Both requests were denied.
No Investigation days