

**COUNTY OF SANTA BARBARA  
CIVIL SERVICE COMMISSION**

HEARINGS (APPEALS) 2007-2008

**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>
P. FREITAS v. ADMHS DEPT.	07/19/07	Termination (1212 & 1203 a, b, d, i, k, and o)	Commissioners reviewed Hearing Officer O'Neill's initial progress report. Case continued one month to allow time for Local 620, SEIU to determine whether it will provide legal counsel to the employee
	08/16/07		Commissioners agreed with the parties and Hearing Officer O'Neill to schedule the hearing for 10/18/07, following the monthly meeting.
	09/20/07		Commissioners reviewed the Hearing Officer's progress report and confirmed the hearing schedule.
	10/05/07		Commissioners notified that the case has settled. Hearing cancelled.
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P. BEEMAN v. PUBLIC DEFENDER	07/19/07	Probationary period following promotion (912)	Case carried forward from prior fiscal year. Commissioners reviewed Hearing Officer Micon's progress report about settlement discussions and the request for a continuance of the scheduled hearing date. Case continued one month for setting hearing date if settlement is not reached.
	08/16/07		Commissioners reviewed and accepted the Hearing Officer's recommendation to continue the matter to October for rescheduling.
	10/18/07		Commissioners reviewed alternative hearing dates and scheduled the hearing for Friday, December 7, 2007 at 9:30 a.m.
	11/15/07		Commissioners confirmed the hearing schedule of 12/07/07.
	12/03/07		Commissioners notified that the case has settled. Hearing cancelled.
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HEARINGS/APPEALS 2007-2008 (Cont.)

<u>Appellant/Title</u>	<u>Dates</u>	<u>Issue/Rule</u>	<u>Disposition</u>
**W.N. v. PROBATION DEPT.	08/16/07 09/20/07 10/26/07 11/15/07 12/13/07 01/11/08  02/21/08 05/23/08 06/03/08 06/24/08 06/30/08		Commissioners reviewed initial progress report from Hearing Officer Micon and scheduled the hearing for 10/26/07 at 10:00 a.m. Commissioners confirmed the hearing schedule. Hearing held but not completed. Parties agreed to an additional day. Commissioners scheduled second hearing day for 12/14/07. Hearing on 12/14/07 cancelled and rescheduled for 01/11/08. Hearing completed. Commissioners conclude the department's actions were not justified by the circumstances, reverse the discipline imposed and order that the Appellant be made whole. Decision signed by Commissioners. County Counsel filed Petition for Writ of Mandate in Superior Court. Commission received County's Request for Administrative Record. Answer to Petition for Writ of Mandate received from W.N. Case carries forward to next Fiscal Year.
<hr style="border-top: 1px dashed black;"/>			
**J.H. v. SHERIFF'S DEPT.	07/12/07  10/15/07  12/13/07 April, 2008		Case carried forward from prior year. County filed request to re-schedule hearing on Petition for Writ of Mandate re Commission's decision to postpone ruling on Appellant's Petition to Compel Discovery until CS case is set for hearing after related criminal matter concludes. Documents received on Superior Court's decision re Order to Show Cause Hearing concerning Appellant's Petition to Compel Discovery. No action taken by the Commission. Commission notified that the related criminal matter has concluded. Status review: Hearing Officer informed CSC Office that Appellant's legal counsel plans to file an appeal in the criminal matter. No action taken to remove the CSC appeal from the calendar.

06/30/08

Case carries forward to next Fiscal Year.

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HEARINGS/APPEALS 2007-2008 (Cont.)

<u>Appellant/Title</u>	<u>Dates</u>	<u>Issue/Rule</u>	<u>Disposition</u>
**G.F. v. SHERIFF'S DEPT.	07/23/07 07/25/07 08/16/07		Request for an appeal hearing of disciplinary action filed by Appellant. Hearing Officer appointed. Commission informed that the employee has withdrawn the appeal at this time. Commissioners dismissed the appeal without prejudice.
**J.R. v. PROBATION DEPT.	07/18/07		Case carried forward from prior year. Commission issued its decision and upheld the department's disciplinary action and determined that no new legal issue was raised by Appellant's post-hearing brief.
L. NOBLE v. DEPT. OF SOCIAL SERVICES	07/06/07  08/03/07 08/03/07  11/05/07 01/18/08 01/29/08 02/21/08	Termination (1203k)	Case carried forward from previous year. Special meeting held to review County's request for clarification of the Commission's decision. After presentations from the parties, the three Commissioners who heard the appeal reviewed their decision in closed session. On return from closed session, Chairman Yanez reported the Commissioners unanimously concluded there are no further findings that are appropriate. County Counsel filed Petition for Writ of Mandate in Superior Court. County Counsel filed request in Superior Court that the Commission prepare the Administrative Record in this Civil Service Appeal. Administrative Record lodged at Superior Court. Notice of Hearing on Petition for Writ of Administrative Mandamus. Hearing held in Superior Court. Commissioners held closed session to review the Court's Writ directing the Commission to amend the findings of fact with additional details on its decision in this case. No report made in open session.

<u>Appellant/Title</u>	<u>Dates</u>	<u>Issue/Rule</u>	<u>Disposition</u>
	02/29/08		Commissioners signed Revised Decision which does not change earlier decision and order that the employee be reinstated, but receive a Letter of Reprimand and a 60-day suspension.
	03/14/08		CSC filed Return to Court Pursuant to Writ of Administrative Mandamus
HEARINGS/APPEALS 2007-2008 (Cont.)			
L. NOBLE v. DEPT. OF SOCIAL SERVICES (Cont.)	04/07/08  04/15/08  06/13/08 06/30/08	Termination (1203k)	County's Objections to Commission's Return to Writ of Administrative Mandamus and Notice of Relodging of Transcript with Superior Court received in Commission Office. Superior Court held Hearing and issued a Ruling that the Commission had complied with the Peremptory Writ in its Revised Decision stating the evidence relied upon and detailing the reasons for each finding. County's Petition for Writ of Administrative Mandamus is refiled. Case carries forward to next Fiscal Year.
M. MURPHY v. GENERAL SERVICES DEPT.	02/21/08  03/20/08  04/10/08 05/15/08	Termination (1212 & 1203b)	Hearing Officer Voorhis presented the initial progress report and said the parties agree to schedule the hearing for April 17 and 18.  Commissioners confirmed the hearing schedule and parties agreed to exchange information no later than April 1 before the hearing . Hearing cancelled; settlement agreement is pending. HO reported that Board of Supervisors has approved the agreement.
J. PLACENCIA v. PUBLIC WORKS DEPARTMENT	02/21/08  03/20/08	Termination (1212 & 1203a, f, k & o)	Hearing Officer O'Neill reported that the appeal is being evaluated and recommended that the matter be continued to the March meeting.  Hearing Officer recommended a further one-month continuance and said the matter may be dismissed at that time.

04/17/08

Hearing Officer reported that the employee has elected to proceed without counsel. By agreement the hearing is set for 06/19/2008

05/15/08

Hearing schedule is confirmed.

06/19/08

Hearing held but not concluded. Commissioners agree to give Appellant additional time to contact additional witnesses.

06/30/08

Case carries forward to next Fiscal Year.

HEARINGS/APPEALS 2007-2008 (Cont.)

<u>Appellant/Title</u>	<u>Dates</u>	<u>Issue/Rule</u>	<u>Disposition</u>
K. WOLFCALE v. PUBLIC WORKS DEPARTMENT	05/15/08  06/30/08	Termination (1212 & 1203a, b, d, k, & o)	Commissioners reviewed Hearing Officer Micon's initial progress report and recommended hearing dates. Hearing scheduled for Friday, July 25 <sup>th</sup> at 10:00 a.m. HO notified Commission that hearing date will be rescheduled due to unavailability of a witness for the department. Case carries forward to the next Fiscal Year.

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E. FINNEGAN v. ADMHS DEPARTMENT	06/19/08	Termination (1212 & 1203b)	Hearing Officer Charles Voorhis presented his initial progress report and reported that the parties have agreed to hold the hearing starting on Thursday, August 21, 2008 at 10:30 a.m. Case carries forward to next Fiscal Year.
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**DISCRIMINATION COMPLAINTS 2007-2008**

<u>Appellant/Title</u>	<u>Dates</u>	<u>Issue/Rule</u>	<u>Disposition</u>
C. PONCE v. SOCIAL SERVICES DEPT.	07/19/07  08/16/07	Discrimination Complaint (1304 & 508)	Case carried forward from previous year. Hearing Officer T. Bonham recommended that the August 16 <sup>th</sup> hearing date be vacated and that a one-month continuance for setting a new hearing date be granted.  Hearing continued to September to allow time for union to make a decision on providing legal counsel for Appellant.

09/20/07	Continued one month to resolve problem in arranging legal counsel.
10/18/07	Commission granted an additional one-month continuance for scheduling the hearing.
11/15/07	Commission tentatively set the hearing for January 17 & 18, 2008.
12/20/07	Commission granted Respondent's request that the hearing be continued to March 13 and 14, 2008.
01/17/08	Commission confirmed the scheduled hearing dates of March 13 & 14.

DISCRIMINATION COMPLAINTS 2007-2008 (Cont.)

<u>Appellant/Title</u>	<u>Dates</u>	<u>Issue/Rule</u>	<u>Disposition</u>
C. PONCE	02/21/08	Discrimination	Scheduled hearing dates are cancelled and the matter is continued to March 20 <sup>th</sup> meeting for rescheduling.
v.		Complaint	
SOCIAL	03/20/08	(1304 &	Commissioners reviewed the proposed schedule re the County's Motion for Summary Judgment.
SERVICES		508)	
DEPT.	04/17/08		Commissioners scheduled May 15 <sup>th</sup> to discuss the Hearing Officer's recommendations concerning pre-hearing motions.
(Cont.)	05/15/08		Commissioners held an extended discussion on County's Motion for Summary Judgment and the Hearing Officer's recommendation.
			<u>Conclusion.</u> Commission reassigned the case to Hearing Officer Micon for a recommendation on the Motion for Summary Judgment. Matter continued to 06/19/08.
	06/19/08		Commissioners reviewed the Hearing Officer's recommendation to grant the County's Motion for Summary Judgment and heard argument from the parties on the motion.
			<u>Conclusion.</u> By unanimous vote, the Commissioners approved the Hearing Officer's Proposed Order to grant the County's Motion for Summary Judgment. Appellant had not met his burden of stating specific facts to cause a reasonable trier of fact to find, on this record, that the

06/30/08

Department's promotional decision was the result of an unlawful discriminatory motive.

Case carries forward to next Fiscal Year for receipt of the concluding document: Commission's Order on the Motion for Summary Judgment.

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DISCRIMINATION COMPLAINTS 2007-2008 (Cont.)

<u>Appellant/title</u>	<u>Dates</u>	<u>Issue/Rule</u>	<u>Disposition</u>
S. KLUKER v. PUBLIC HEALTH DEPT.	02/12/08	Discrimination Complaint (508, 1303	Letter from Appellant's Attorney requesting an appeal of the findings in the completed investigation report on the discrimination complaint filed by the employee in January, 2008.
	02/21/08	1304 &1308)	Commission grants Appellant's request for a continuance to 03/20/08 for consideration on the merits re the request for an appeal hearing concerning the findings in the discrimination complaint investigation report.
	03/20/08		An additional two-month continuance is granted.
	05/15/08		Appellant's Attorney stated that he has requested mediation in an attempt to reduce the cost of proceeding with the entire Civil Service appeal process. Matter continued one month to allow time for the parties to discuss the issue.
	06/19/08		County Counsel reported that Appellant's Attorney has requested an additional one-month continuance. Request granted and case carries forward to next Fiscal Year.

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T. SMITH v. GENERAL SERVICES	04/17/08	Discrimination Complaint (1304)	Commissioners conducted an extended discussion on employee's request to review his recent complaint filed with the Equal Employment Opportunity Office. Employee said he had new information and witnesses that concerned the complaint he had filed in 2006. <u>Conclusion.</u> The Commissioners agreed to continue the matter to the next meeting and calendar it as a Request for Investigation. See page 9 below.
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**REQUESTS FOR INVESTIGATION 2007-2008**

<u>Appellant/Title</u>	<u>Dates</u>	<u>Issue/(Rule)</u>	<u>Disposition</u>
P. BEEMAN v. PUBLIC DEFENDER	06/30/07 12/03/07	Administra- tion of personnel (1305)	NOTE: The case was filed in 2006 as a request for an appeal hearing from Appellant's release as a Business Manager II 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 did not have jurisdiction to grant an appeal. The request for an investigation was tabled on 02/15/07. Case carried forward to next Fiscal Year. Commission notified that a settlement was reached. See page 1 above under Hearings(Appeals).
T. SMITH v. GENERAL SERVICES DEPT.	09/20/07	Administra- tion of personnel (1305)	Commission reviewed the employee's letter requesting an investigation of his claims concerning "harassment, discrimination and racial slurs" and the claim that the department and its managers had not done anything about his complaint. Commission also reviewed the Discrimination Complaint procedures of the Equal Employment Opportunity (EEO) Office and the procedures and remedies available under the C.S. Rules.



The Commissioners discussed the issue of what would be investigated by them and questioned whether it could address the credibility of the Discrimination Complaint Investigation Report if the claim about what was said could not be substantiated by the prior investigation done by County Counsel and the EEO Office.

Conclusion. The Commissioners denied the request for an investigation. The Commissioners also asked for additional summary data concerning discrimination. The Equal Employment Opportunity Manager said that a copy of the Annual Workforce Report and additional quarterly reports concerning discrimination complaints will be sent to the Commission.

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REQUESTS FOR INVESTIGATION 2007-2008 (Cont.)

<u>Appellant/Title</u>	<u>Dates</u>	<u>Issue/Rule</u>	<u>Disposition</u>
T. SMITH v. GENERAL SERVICES DEPT.	05/15/08  06/19/08	Administra- tion of personnel (1305)	The Commissioners discussed how to proceed with investigating the request from the employee concerning a recent discrimination complaint filed with the EEO Office and agreed to defer to the EEO Office for an investigation based on the employee's new witness list. The EEO Manager reported to the Commission that the additional information obtained from the specified witnesses on Mr. Smith's list did not change the findings of original report on the discrimination complaint. The additional interviews presented no supporting evidence for claims made by Mr. Smith. <u>Conclusion.</u> By unanimous vote, the Commissioners denied the Request for Investigation.

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**S U M M A R Y - 2007-2008**

PENDING AS OF June 30, 2008 6 DISCIPLINARY APPEALS (W.N., J.H., Noble, Placencia, Wolfcale, and Finnegan)  
AND 2 DISCRIMINATION COMPLAINTS (Ponce and Kluker)

7 NEW DISCIPLINARY APPEALS FILED W.N., G.F., Freitas, Murphy, Placencia, Wolfcale and Finnegan  
3 HEARING DAYS W.N. v. Probation (2 days) and Placencia v. Public Works (1 day)  
1 Hearing held with department's disciplinary action reversed (W.N. v. Probation).  
1 Hearing held but not concluded (Placencia v. Public Works).  
1 Decision issued upholding department's disciplinary action (J.R. v. Probation carried forward to this FY for Commission's determination on 07/18/07 that no new legal issue was raised by Appellant's post hearing brief.)  
3 Settlements reached by parties without hearing (Beeman, Freitas, and Murphy) NOTE: Beeman was filed in FY 2006-07).  
1 Appeal withdrawn by employee and case dismissed without prejudice (G.F. v. Sheriff's Dept.)  
2 Petitions for Writ of Mandate filed by Respondent (W.N. v. Probation and L. Noble v. DSS)  
1 NEW DISCRIMINATION COMPLAINT FILED (S. Kluker v. Public Health Dept.) Pending on 06/30/08.  
1 DISCRIMINATION COMPLAINT CONCLUDED BY SUMMARY JUDGMENT (C. Ponce v. DSS) Pending Signed Order  
2 NEW REQUESTS FOR INVESTIGATION FILED AND DENIED (T. Smith v. Gen. Services) 9/20/07 and 5/15/08.

#### SUMMARY – ACTIVITY FOR THREE PRIOR YEARS

**2006-2007** 9 new 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 reinstated with 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)

**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: Tieso 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.

#### SUMMARY – ACTIVITY FOR THREE PRIOR YEARS (Cont.

**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).

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).