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SUPERIOR COURT
OF GUAM

2026 FEB 16 AM 10:40

CLERK OF COURT

By: MP

IN THE SUPERIOR COURT OF GUAM

OFFICE OF THE ATTORNEY
GENERAL,

Petitioner,

vs.

THE GUAM CIVIL SERVICE
COMMISSION,

Respondent,

vs.

BRYAN J. CRUZ,

Real Party in Interest.

Special Proceedings Case No. SP0055-25

**DECISION AND ORDER
GRANTING PETITIONER'S MOTION
TO DISMISS COUNTERCLAIM FOR
DECLARATORY RELIEF**

In this proceeding seeking judicial review of a Decision and Judgment issued by the Civil Service Commission, Petitioner the Office of the Attorney General moves to dismiss Real Party in Interest Bryan Cruz's Counterclaim seeking declaratory relief and attorney's fees. The Court concludes Cruz did not exhaust the administrative remedies available to him for enforcement of the CSC's Decision and Judgment and GRANTS the motion on that basis. In addition, the Court finds that the issue of whether Cruz's Counterclaim presents a proper request for attorney's fees requires further briefing.

I. FACTUAL AND PROCEDURAL BACKGROUND

The CSC issued a Decision and Judgment on March 25, 2025, dismissing the OAG's adverse action case against Cruz and ordering, among other relief, that he be reinstated to his former position. R. at AG492. The Decision and Judgment required immediate compliance and

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referenced the statutory consequences for non-compliance: "the Commission may bring an action in the Superior Court to enforce the reinstatement of the Employee and impose any appropriate penalties or remedies available at law or equity, as described in 4 GCA § 4406(h)." *Id.* at AG493.

The OAG petitioned for a writ of judicial review. V. Pet. Writ Jud. Rev. (Apr. 16, 2025). Cruz answered the Petition and filed a Counterclaim seeking declaratory relief and an order of attorney's fees and costs. V. Answer Pet. Writ Jud. Rev. Decl. J. Countercl. Decl. Relief (May 7, 2025). Cruz sought a declaration that the OAG was "not in full compliance" with the CSC's Decision and Judgment, alleging that the OAG reinstated Cruz to the Child Support and Enforcement Division, rather than to his former Investigator III position. *Id.*; Emp.'s Opp. Mgmt.'s Mot. Dismiss Countercl. (June 18, 2025). The OAG moves to dismiss the Counterclaim, arguing that there is a lack of subject-matter jurisdiction, a failure to exhaust administrative remedies, and a lack of entitlement to attorneys' fees. Mot. Dismiss Countercl. Decl. Relief (May 21, 2025).

In a separate Decision and Order, the Court struck the CSC's Amended Judgment adding attorneys' fees as untimely issued by the CSC. Dec. & Order Granting Mot. Strike CSC Am. J. (Feb. 5, 2026). The Court determined that although the CSC had decided at a hearing that it would amend its Decision and Judgment to include attorney's fees, it failed to timely do so in writing as required. *Id.*

II. LAW AND DISCUSSION

A. This Court lacks jurisdiction over the Declaratory Relief claim.

The OAG questions whether the Court has jurisdiction over Cruz's Counterclaim for declaratory relief. The Superior Court has jurisdiction to review decisions rendered by the CSC

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on adverse actions to suspend, demote, or dismiss government employees. *See* 4 GCA § 4403(b), (d)(4); 5 GCA §§ 9240–9241; 7 GCA § 3105. Moreover, when a court reviews an inferior tribunal's decisions, the extent of review may not extend further than to review the inferior tribunal's authority. 7 GCA § 3108.

The type of order at issue is a CSC order mandating reinstatement—a power explicitly conferred upon the CSC: “Where the Commission has modified or revoked an adverse action in favor of the employee... the employee shall be reinstated immediately pursuant to the terms of the decision” 4 GCA § 4406(g). Guam law further restricts how an agency implements reinstatement: “no employee of the government of Guam may be involuntarily transferred to a position which is unrelated with respect to job duties and responsibilities to the position occupied by the employee before such transfer.” 4 GCA § 4116. The CSC’s Decision and Judgment applied these mandates, explicitly ordering that Cruz “shall be immediately reinstated to his former position.” R. at AG492. Cruz’s Counterclaim does not ask the Court to review the CSC’s authority or interpret an ambiguous order; instead, it asks the Court to treat the CSC’s reinstatement directive as if it were an order the employee could enforce directly in this proceeding.

Before the Court answers whether it has the power to enforce the CSC’s reinstatement order directly, it first reviews whether the CSC itself has that power. The Court finds such authority in two places within the CSC’s enabling statute. First, “The Civil Service Commission may seek enforcement of its decisions and orders . . . in all matters permitted by this Title by application to the Superior Court for the appropriate remedy” 4 GCA § 4408. Second, and more specifically related to CSC orders for reinstatement, the CSC may “bring an action in the

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Superior Court to enforce the reinstatement of the employee and impose any appropriate penalties or remedies available at law or equity.” 4 GCA § 4406(h).

Cruz posits that section 4406(h) and 4408 do not preclude him from bringing his own action before this Court. In support, he cites a recent and ongoing action, *Office of the Attorney Gen. v. Nisperos*, SP0101-24. In that case, which also involves an adverse action by the OAG, the court twice denied the OAG’s motions to dismiss a similar counterclaim. In one Decision and Order, the court found a substantial and immediate controversy over the OAG’s compliance with a CSC reinstatement order. *Id.* (Dec. & Order (May 9, 2025)). A second Decision and Order¹ again denied dismissal and permitted the employee’s counterclaim for declaratory relief to proceed as an enforcement action for a final CSC judgment. *Id.* (Dec. & Order (Jan. 12, 2026)). Cruz relies on the *Nisperos* decisions as examples of employees using counterclaims in writ proceedings to press for implementation of CSC orders.

However, neither *Nisperos* decision addressed the enforcement powers granted to the CSC under sections 4406(h) and 4408. Nor did they address whether an employee must first ask the CSC to act before seeking relief here. That option was certainly not just available here, but made clear in the March 25, 2025 Decision and Judgment, which noted that the CSC could enforce the reinstatement order in an action before the Superior Court. R. at AG492. Cruz never availed of that option.

In any event, because the *Nisperos* decisions do not address the CSC’s authority under sections 4406(h) and 4408—both of which this Court finds relevant to the analysis before it—the

¹ At the December 23, 2025 oral arguments on the OAG’s Motion to Dismiss, Cruz alerted this Court to an impending decision in *Nisperos*. The “second” *Nisperos* Decision and Order was eventually issued on January 12, 2026—after the briefing and arguments on the present motion concluded.

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Court refrains from applying them here.

Turning back to how sections 4406(h) and 4408 interact with this Court's jurisdiction, the Court finds that its analysis must consider the context of the powers granted to the CSC. In a judicial review proceeding, as already noted, the Court's jurisdiction is limited by statute to reviewing the CSC's decisions and authority. *See* 7 GCA § 31108. Plainly read, the Court's jurisdiction does not extend to exercising the CSC's own enforcement power under 4 GCA § 4408. The statutes plainly contemplate that the CSC decides adverse action appeals and, when necessary and in its discretion, applies to this Court to enforce its own orders. The Court therefore concludes that although it may review CSC decisions and grant declaratory relief in some cases, it does not have authority in this writ case to serve as the first court to enforce the CSC's order at Cruz's request.

As a final point, Cruz argues that a court may issue declaratory relief under 7 GCA § 26801, independent of any administrative remedy. The Guam Supreme Court has rejected this exact argument multiple times. In *Barrett-Anderson v. Camacho*, 2015 Guam 20, the OAG sought to bring an independent declaratory relief action to resolve gaming regulatory issues, despite an available remedy under the Administrative Adjudication Law. The Guam Supreme Court held that section 26801 cannot be viewed in isolation, but rather in the context of all available remedies. "The doctrine of exhaustion of administrative remedies may not be circumvented by bringing actions for declaratory relief." *Id.* ¶ 24.

And, more recently, in *Story-Bernardo v. Gov't of Guam*, 2023 Guam 27, the plaintiffs failed to exhaust their administrative remedies in pursuing their double pay claims but believed a declaratory relief claim remained viable. The Guam Supreme Court ruled that the plaintiffs' declaratory relief action was an attempt to sidestep the available administrative remedies. *Id.* ¶

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36. These cases make clear that when an administrative remedy exists, it must be pursued and exhausted, and declaratory relief becomes unavailable. In other words, Cruz cannot seek declaratory relief in lieu of seeking administrative relief.

In summary, in the adverse-action context, the path is clear: the CSC must be given the first opportunity to enforce its own decision under section 4408. Only after the CSC declines or fails to act, and administrative remedies are truly exhausted, may an employee seek judicial enforcement directly. Because Cruz never invoked the CSC's enforcement authority under section 4408, he did not exhaust the administrative remedies available to him. Under *Story-Bernardo*, that failure bars his attempt to obtain declaratory relief in this Court based on non-compliance of the CSC Decision.

B. The Counterclaim remains on the issue of attorney's fees.

Aside from his claim for declaratory relief, Cruz seeks an award of attorney's fees and costs. The OAG argues that he is not entitled to attorney's fees and costs particularly with respect to the issue of reinstatement—a remedy he did not exhaust administratively. The Court has already resolved this by dismissing the reinstatement counterclaim.

Cruz's counterclaim goes beyond reinstatement, however. Cruz counters that 4 GCA § 4406.1 mandates an award of attorney's fees when an employee prevails before the CSC. As noted, Cruz prevailed before the CSC but the CSC did not timely award him attorney's fees, thereby also making Cruz an aggrieved party. Thus, the question becomes whether Cruz's Counterclaim seeking fees pursuant to section 4406.1 is procedurally proper.

Under the Administrative Adjudication Law and the CSC's enabling statute, a party adversely affected by an administrative agency's decision may pursue judicial review by filing a petition for a writ of mandate. 4 GCA § 4406(f); 5 GCA §§ 9240–41. The writ statute also

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confers standing on a person who is "beneficially interested." 7 GCA § 31203. This language advises that the proper method for a person adversely affected by a CSC decision is to file a petition for a writ of mandamus within 30 days after the last date on which reconsideration can be ordered. 5 GCA § 9241. As explained in the Court's February 5, 2026 Decision and Order, the CSC had only until April 30, 2025 to reconsider its March 25, 2025 Decision and Judgment. Dec. & Order Granting Mot. Strike CSC Am. J at 3. Cruz filed his counterclaim seven days after April 30, 2025.

The Court is inclined to hold that, to seek relief for attorney's fees under section 4406.1, Cruz had to file a petition for mandamus or judicial review within thirty days of April 30, 2025. However, Cruz filed a counterclaim, not a petition. Because the parties did not address this issue directly, it remains unresolved whether a counterclaim suffices as a petition for judicial review under section 9241. The parties may address this during the briefing of the issues in this case. A briefing schedule will be issued concurrently with this Decision and Order.

III. CONCLUSION

Cruz's Counterclaim for Declaratory Relief seeking to enforce a CSC reinstatement order has not been properly presented to the Court; therefore, it is DISMISSED. However, the validity of Cruz's Counterclaim seeking attorney's fees under section 4406.1 requires further briefing.

SO ORDERED, 16 February 2026.



HON. ELYZE M. IRIARTE
Judge, Superior Court of Guam

Appearing Attorneys:

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Guam Civil Service Commission, Respondent, unrepresented

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