



**PIMA COUNTY
MERIT SYSTEM COMMISSION
OPEN MEETING MINUTES OF DECEMBER 3, 2021**

**Continuation of
Daniel Waters v Pima County Facilities Management Department**

Commission Members Present:
Mike Hellon, Chair
David Freund, Vice-Chair
Sami Hamed

All persons in attendance were asked to state their names for the record.

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| Paul Loucks | Counsel for the Commission |
| Ellen Brown | Deputy County Attorney for the Respondent |
| Jonathan Hildebrand | Pima County Attorney's Office |
| Laureen Pew | Pima County Attorney's Office |
| Carla Wilson | Pima County Attorney's Office |
| Lisa Josker | Director of Facilities Management |
| Merle Joy Turchik | Attorney for Appellant |
| Daniel Waters | Appellant |
| Joseph Shelley | Observer |
| Cathy Bohland | Observer |
| Trina Bergen | Recording Secretary |

The Open Meeting of the Pima County Merit System Commission was called to order by Mr. Hellon, Chair, at 9:00 a.m. Mr. Hellon asked if anyone had any preliminary matters to discuss before proceeding with the hearing, there were none.

Appellant's Second Witness: Steven Cota, Trades Maintenance Specialist. Paul Loucks, Counsel for the Commission swore in Mr. Cota and informed him of the Rule of Privilege. Mr. Cota gave a brief work history and provided testimony in this hearing.

After providing testimony Mr. Cota was excused. Mr. Loucks reminded him of the Rule before he left the hearing.

The Commission recessed for a break at 10:15 a.m. and reconvened at 10:20 a.m.

Appellant's Third Witness: Cindy Madrid, Employment Rights Officer. Paul Loucks, Counsel for the Commission swore in Ms. Madrid and informed her of the Rule of Privilege. Ms. Madrid gave a brief description of her duties with Pima County. She provided testimony in this hearing.

After providing testimony Ms. Madrid was excused. Mr. Loucks reminded her of the Rule before she left the hearing.

Appellant's Fourth Witness: Daniel Waters, former Trades Maintenance Specialist. He provided a brief work history before joining Pima County. He also explained the tasks he did while working for Pima County. He was also Shop Safety Officer for the shop and explained the duties. He provided testimony in this hearing.

The Commission recessed for lunch at 12:35 p.m. and reconvened at 1:08 p.m.

Appellant's Fourth Witness: Daniel Waters continued his testimony in this hearing.

Mr. Waters excused, Mr. Loucks reminded him of the Rule was invoked.

The Commission recessed for a break at 1:45 p.m. and reconvened at 1:57 p.m.

Ms. Brown, County Attorney, made a closing argument.

Ms. Turchik, Attorney for Mr. Waters, made a close argument.

Mr. Hamed explained his thought processes in deciding his decision and discussion ensued.

Mr. Hellon asked Mr. Loucks for legal counsel while in open session. Mr. Loucks provided counsel and discussion ensued.

Mr. Freund and Mr. Hellon each explained their thought processes in deciding their decisions and discussion ensued.

ACTION: Mr. Hamed moved to uphold case #21A-05...discussion ensued. Mr. Hamed withdrew the motion to rephrase.

ACTION: Mr. Hamed moved in the case of 21A-05 that Pima County decision to suspend Mr. Waters for two-days, that the decision be upheld by this Commission. Mr. Freund second the Motion. On a roll call vote the Motion passed unanimously, 3-0.

ACTION: Mr. Hellon moved the appeal of Daniel Waters in the matter of 21A-06 be sustained and the action be revoked and that he be reinstated to his position of employment with Pima County with full back pay for the reason that the Appointing Authority failed to establish that there was just cause for the action imposed. Instead of Dismissal that we impose a two-day suspension. Mr. Hamed second the Motion. Discussion ensued. Mr. Hellon withdrew his Motion. Mr. Hamed withdrew his second.

ACTION: Mr. Hellon moved that in the matter of 21A-06, that the appeal of Daniel Waters be sustained as follows. Appellant knew or should have known his conduct could have resulted in disciplinary action but that Termination be revoked and that his discipline be modified such that he serve a two-day consecutive retroactive suspension (i.e., without pay), and be reinstated with all other back pay for the reason that in the sole discretion of the Commission the discipline imposed was too severe. Discussion ensued. Mr. Hamed suggested two days of suspension instead of three days. Mr. Hellon agreed to amend the Motion to reflect two-day suspension. Mr. Hamed second the amended Motion. On a roll call vote the Motion passed unanimously, 3-0.

At 3:43 p.m., Mr. Hellon stated this is concluded and the parties could leave.

The minutes were prepared by the Recording Secretary. Minutes approved on May 25, 2022.

/s/ Mike Hellon, Chair