

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
Liliana Tatum,)	OEA Matter No. 1601-0011-15
Employee)	
)	Date of Issuance: August 29, 2016
v.)	
)	Joseph E. Lim, Esq.
Department of Disability Services,)	Senior Administrative Judge
Agency)	
_____)	
Donald Temple, Esq., Employee Representative)	
Mark Back, Esq., Agency Representative ¹)	

INITIAL DECISION

INTRODUCTION

On November 3, 2014, Liliana Tatum (“Employee”) filed a petition for appeal with this Office from Department of Disability Services’s (“Agency” or “DDS”) final decision removing her effective October 3, 2014, for misfeasance, malfeasance, and any other on-duty or employment related reason for corrective or adverse action that is not arbitrary or capricious. The parties engaged in mediation on February 2015, but they failed to settle their differences. This matter was initially assigned to former Administrative Judge Stephanie Harris. It was then reassigned to me on September 29, 2015. I conducted a prehearing conference on November 30, 2015, and a hearing on January 15, 2016, and February 17, 2016. I closed the record at the conclusion of the hearing.

JURISDICTION

The Office has jurisdiction in this matter pursuant to D.C. Official Code § 1-606.03 (2001).

ISSUE

Whether Employee’s actions constitute cause for adverse action, and if so, whether the penalty of removal was appropriate under the circumstances.

BACKGROUND

Parties’ Allegations

Agency accuses Employee, a Vocational Rehabilitation Specialist (“VRS”), of

¹ Kasia Preneta, Esq., represented Agency at the hearing. On May 2, 2016, she withdrew her appearance and Mr. Back substituted for her.

misfeasance, malfeasance, and any other on-duty or employment related reason for corrective or adverse action that is not arbitrary or capricious. Specifically, Employee was giving preferential treatment to someone in the course of her work duties, thereby creating the appearance of impropriety. Employee denies any impropriety and asserts that Agency has not met its burden of proof.

Undisputed facts

Among other duties, Employee's job as a VRS, CS-1715-12, was to process applications for Agency services and, if approved, creating an Individualized Plan of Employment ("IPE") or Independent Living Plan ("ILP"). Applications must contain the proper information and documents to support it. Employee has been a VRS with the Agency for more than 23 years.

Agency has a standard operating protocol ("SOP")² to provide clarity to the District of Columbia Rehabilitation Services Administration ("DCRSA") application process in order to streamline its operations, effectively manage staff times, and provide high-quality client services delivery in compliance with Federal Rehabilitation Services Administration ("RSA") and DCRSA policies, procedures, and regulations.

Agency receives referrals from all sources, whether telephone calls, facsimiles, email, and postal mail. The Intake and Outreach Unit ("IOU") Administrative Support Specialist opens a case file for all walk-in and telephone inquiries and collects basic information such as name and social security number. An intake appointment with an Intake Worker is then scheduled through the calendar function in Microsoft Outlook.

Once sufficient information is gathered on an applicant to initiate an assessment, then he or she is designated as Status 2 and a case file is opened in their database. Individuals receiving Social Security benefits are also designated as Status 2. Former Agency clients requesting a re-opening of their cases are likewise designated as Status 2 and are re-assigned to the same VRS who formerly handled their case.

For disabled applicants, the following documents are required for Agency to accept a new applicant: a photo ID with the name of the individual, social security card, working permit visa (if necessary), Social Security award letter, any medical record documenting the disability, proof of income, medical insurance, and work history record.

Agency employs a financial needs test for the cost of rehabilitation services it provides. Based on a financial schedule that factors in the applicant's income and family size, applicants are expected to financially contribute a certain amount towards the cost of vocational

² Agency Exhibit 23. The succeeding paragraphs regarding Agency's SOP was taken from this exhibit.

rehabilitation or independent living services. The documents, such as income tax returns and the federal Student Aid Report, needed to substantiate claims of income are specified.

Vocational rehabilitation (“VR”) services such as physical and mental restoration, maintenance, technological aids and devices, training, occupational licenses, books and training materials, tools, supplies, etc., are subject to the financial need test.

Independent living services such as physical and mental restoration, housing incidental to the provision of independent living rehabilitation services, transportation, recreational services, technological aids and devices, and services to family members of eligible individuals with severe disabilities if the services are necessary for improving the ability of the eligible individual to live and function more independently, are also subject to the financial need test.

However, certain applicants are exempt from the financial need test, such as those who are financial wards of the D.C. government, recipients of Supplemental Security Income (“SSI”) or Social Security Disability Insurance (“SSDI”), clients of the Income Maintenance Administration, or an eligible individual receiving another form of public assistance income as defined in the federal Social Security Act of 1935 (49 Stat. 620; 42 U.S.C. §§ 301, *et seq.*).

Costs related to determining an applicant’s eligibility for Agency services, counseling, guidance, placement, and referral services are not subject to the financial need test.

Agency bases an applicant’s eligibility for vocational rehabilitation services only on the following basic requirements:³

- a) A determination by qualified personnel that the applicant has a physical or mental impairment;
- b) A determination by qualified personnel that the applicant’s physical or mental impairment constitutes or results in a substantial impediment to employment for the applicant;
- c) A determination by qualified vocational rehabilitation counselor employed by the Rehabilitation Services Administration that the applicant requires vocational rehabilitation services to prepare for, secure, retain, or regain employment consistent with the applicant’s unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice; and
- d) A presumption, in accordance with subsection 103.3 of this section that the applicant can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

3 Employee Exhibit 1. §103.2.

The Rehabilitation Services Administration may initiate the provision of vocational rehabilitation services for an applicant on the basis of an interim determination of eligibility prior to the sixty (60) day period described in subsection 102.1.⁴

When making an interim determination of eligibility, the Rehabilitation Services Administration shall:⁵

- a) Obtain a written approval from the Administrator of the Rehabilitation Services Administration or his or her designee;
- b) Document in the individual's records the criteria and conditions for making the determination; and
- c) Document in the individual's records the scope of services that may be provided pending the final determination of eligibility.

When providing services based on an interim determination of eligibility, the Rehabilitation Services Administration shall make a final determination of eligibility within sixty (60) days of the individual submitting an application for services in accordance with subsection 102.1.⁶

The Rehabilitation Services Administration shall base its determination of each of the basic eligibility requirements...on.⁷

- a) A review and assessment of existing data, including counselor observations, education records, information provided by the individual or the individual's family, particularly information sued by education officials, and determinations made by officials of other agencies; and
- b) To the extent existing data do not describe the current functioning of the individual or are unavailable, insufficient, or inappropriate to make an eligibility determination, an assessment of additional data resulting from the provision of vocational rehabilitation services, including trial work experiences, assistive technology devices and services, personal assistance services, and any other support services that are necessary to determine whether an individual is eligible.

Agency comes up with an Individualized Plan for Employment ("IPE")⁸ by conducting a thorough assessment for determining vocational rehabilitation needs for each eligible applicant.⁹ The purpose of this assessment is to determine the specific employment outcome, the criteria for evaluation of progress toward an employment outcome, and the nature and scope of vocational rehabilitation services to be included in the IPE. Depending on what is appropriate for the applicant,

⁴ *Id.*, §103.7.

⁵ *Id.*, §103.8.

⁶ *Id.*, §103.9.

⁷ *Id.*, §103.11.

⁸ Agency Exhibit 35.

⁹ *Id.*

the employment outcome may be full-or part-time employment, self-employment, or business ownership.

The IPE is developed concurrently or within 90 days after a Certificate of Eligibility for VR Services or a Certificate of Eligibility for a Trial Work Experience has been completed. It is amended as needed after periodic reviews.

Agency alleges that Employee failed to apply the necessary due diligence in handling applicant MB's¹⁰ application for Rehabilitation Services Administration ("RSA") services by approving the application and creating an IPE and thereby obligating the Agency to pay for certain services. Essentially, Agency claims that Employee approved the application without the proper information and documents to support it.

On August 15, 2014, Agency issued a notice to Employee informing her of its proposal to remove her from her position.¹¹ The Agency claims that Employee's failure amounted to a violation of DPM Chapter 16, 1603.3(f) (6) (Misfeasance);¹² DPM Chapter 16, 1603.3(f) (7) (Malfeasance);¹³ and DPM Chapter 16, 1603.3(g) (any other on-duty or employment-related reason for corrective or adverse action that is not arbitrary or capricious).¹⁴

The Specifications indicated in the notice of proposed removal are that:

"On Friday, June 27, 2014, you open the case pertaining to a work colleague, MB, with the intent to obligate the agency for personal care services and transportation services without fully investigating current medical documents, follow-up consultation. You demonstrated misfeasance by providing misleading or inaccurate information to superiors and exhibited callous work performance in your handling of MB's case. You reported that you attempted to speak with your supervisor on 3

10 To protect the applicant's privacy, the parties agreed to refer to her by her initials.

11 Agency Exhibit 9 and Employee Exhibit 2.

12 Agency defines misfeasance as "Includes careless work performance, providing misleading or inaccurate information to superiors; dishonesty; unauthorized use of government resources; using or authorizing the use of government resources for other than official business." See E-DPM §1603.3(f)(6) of Chapter 16 of the Personnel Regulations.

13 Agency defines malfeasance as "concealment, fraudulent and/or misuse of public funds." See E-DPM §1603.3(f)(7) of Chapter 16 of the Personnel Regulations.

14 Agency defines this as "Employees shall act impartially and not give preferential treatment to any private organization or individual." See §1800.3(h) of Chapter 18 of the Personnel Regulations; and "Employees shall not take actions creating the appearance that they are violating the law or the ethical standards set forth in this chapter. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts." See §1800.3(n) of Chapter 18 of the Personnel Regulations.

occasions about MB's possible intake on Friday, June 27, 2014. Based on the urgency to inform your supervisor about this particular intake with MB implies that your reservations demonstrate your understanding about professional boundaries and the possible existence of a conflict of interest. You obligated government funds by moving MB's case from status 00 to status 20. You were aware that it generally takes 60 days to determine eligibility and 90 days to develop an IPT. The fact that you processed MB, a work colleague case and not RL, another client with similar needs and without a full assessment, constitutes preferential treatment and a conflict of interest, thereby creating the appearance of impropriety. You exhibited careless work performance by rushing MB's case and/or failure to conduct a comprehensive vocational needs assessment, or waiting for the necessary assessments constitute negligence and compromise the efficiency and integrity of government operations."¹⁵

Following a September 25, 2014, administrative review¹⁶ of the matter, which included the hearing officer's recommendation of termination, the Agency issued its final notice¹⁷ on October 2, 2014, which sustained the hearing officer's decision.

Employee was terminated from her position as a Vocational Rehabilitation Specialist, CS-1715-12, effective October 3, 2014. Employee contests the termination and filed a petition for appeal with the Office of Employee Appeals on November 3, 2014.

Employee's disciplinary history includes a thirty day suspension served on December 9, 2013, for malfeasance, and a twenty-five day suspension served on February 6, 2014, for using abusive language towards a fellow co-worker.¹⁸

Evidence on Disputed Issues

a. Anthony Okona ("Okona") testified (January 15, 2016, Tr. p. 27 – 164) as follows.

Okona worked at Agency's Rehabilitation Services Administration supervising VRS with the mission of assisting disabled people towards employment. Employee was one of the six VRS that he supervised. Each VRS generally has 150-175 clients. When a VRS does an intake process, they perform a comprehensive needs assessment to determine eligibility for Agency services, and write an IPE. Documentation such as medical and/or psychological reports are needed to support claims of disability and identify the types of assistance needed. Determination of eligibility must be done within 60 days and another 90 days after a certificate of eligibility to

¹⁵ *Id.*

¹⁶ Agency Exhibit 3 and Employee Exhibit 8.

¹⁷ Agency Exhibit 2 and Employee Exhibit 9.

¹⁸ Agency Exhibit 21.

complete the needs assessment process. Clients are sometimes given additional days to submit documentation for their disability.

The disability has to be a substantial impediment to employment, such as an inability to ambulate. An applicant on social security disability is presumptively disabled and can be approved in as little as a day. A visual disability that can be corrected by wearing eyeglasses is not deemed a substantial impediment to employment.

After Employee quickly authorized a personal assistant for MB from July 1, 2014, to August 8, 2014, an investigation was launched after finding out that Employee obligated Agency to pay for almost \$5,000 worth of services after a few hours of intake processing of MB's application instead of the months that such process usually takes.

During his investigation, Employee admitted to Okona that MB's application needed more assessments such as psychological, sitting, and vision, but felt that MB's three reports were sufficient to obligate Agency services for MB such as a personal assistant and transportation services immediately.¹⁹

Okona disagreed with this assessment, noting that the doctor's report that Employee relied on stated that more assessments were needed and that a second doctor wrote that MB was not ready to work. Based on the documents relied upon by Employee, Okona's own assessment was that MB was not ready to work. Okona explained that a finding of disability is insufficient, that further evaluation was needed to determine what the applicant needs to enable him/her to return to work.

When Employee asked Okona to recuse himself from the investigation, Okona's supervisor took over. Okona used to be MB's supervisor and was informed by Employee that she would do intake on MB's application. Okona instructed Employee to limit herself to intake.²⁰

b. Angel Bryant ("Bryant") testified (January 15, 2016, Tr. p. 167 –242) as follows.

Bryant, a Supervisory VRS, testified that he took over Okona's investigation of Employee on July 2014. He performed a case review of the MB application and found several deficiencies in Employee's handling of the application, such as a lack of the appropriate medical reports, unacceptable certificate of eligibility, and inadequate information.²¹

Bryant pointed out that MB's own doctor wrote that MB was not ready to go back to

19 Agency Exhibits 29, 30, 31.

20 Tr. P. 152.

21 Agency Exhibit 13.

work, thereby contradicting Employee's assessment that immediate assistance was warranted.²² Bryant explained why he found that Employee's processing of MB's application was done incorrectly. In his investigative report, Bryant concluded that Employee was guilty of malfeasance when she authorized services for MB without seeking supervisory review and adequate documentation, failed to consider the conflict of interest in hurriedly assisting a former colleague, and provided misleading and inaccurate information to management regarding her handling of MB's case.²³ He explained that once Employee obligates Agency for services, those funds are no longer available for others.

c. Taylor Cummings ("Cummings") testified (January 15, 2016, Tr. p. 243-286) as follows.

VRS Cummings took over MB's application around January 2015. She elaborated on why she found medical documentation for MB inadequate to determine eligibility. So she asked MB and obtained releases for updated medical reports.

Cummings described the steps she took in determining MB's eligibility and developing her IPE after obtaining the needed medical reports, including a vocational rehabilitation needs assessment. In the end, she determined that MB did not require a personal assistant but a wheelchair and training towards her goal of becoming a chaplain.

d. Employee testified (February 17, 2016, Tr. p. 7 – 10, 53 -207) as follows.

A licensed rehabilitation counselor since 1996, Employee testified that as the primary Spanish-speaking counselor, 40 to 50 percent of her clients request her services. Her job function was to process and approve rehabilitation services for disabled clients. She also coordinated Americans with Disabilities Act compliance.

Employee testified that she had no prior disciplinary history and was a finalist to the 2010 Cafritz Award in Customer Services. However, Employee later admitted that she had been suspended for taking a co-worker's book that had left the job.

Before June 27, 2014, Employee knew MB as a colleague and as a former client in 2009. She explained that MB was a Federal Government employee at that time applying for Agency services. Because of this, Employee stated that she is familiar with MB's disabilities and that she assisted MB in obtaining a job with Agency. MB also informed Employee that she had to go back to work by July 1, 2014, or her employer will initiate adverse action against her.

Employee testified that MB is in Category 1 because of her multiple disabilities, and that

²² Agency Exhibit 30, *id.*

²³ Agency Exhibit 10.

under Federal law, MB is guaranteed service. Based on the documents (Doctor Moskowitz's note,²⁴ MetroAccess card, ID), and her personal knowledge of MB's disabilities, Employee approved MB's request for Agency to pay for a personal attendant for her. MB made only \$12,000 in 2013, and since her Social Security disability application had not yet been approved, she did not have money for a personal attendant that she needed to get her job back. Employee made a quick approval to enable MB to get back to work the next week.

Employee denied that MB's medical documents were unsigned or absent. She said her supervisor, Mr. Okona, never mentioned any concerns regarding a conflict of interest regarding her intake of MB and denied any bias favoring MB. Employee stated that she made the decision to approve MB's personal assistant request based on the medical documentation she had and her professional judgment. She relied on MB's pay stub and file documents to determine MB's financial situation.

However, Mr. Okona later deleted Employee's authorization for MB's personal assistant. During the subsequent investigation, Employee asked that Mr. Okona recuse himself from investigating the matter and asserted that she had the latitude and discretion to approve Agency's financing of a personal assistant for MB.

Employee agreed that VRS are required to gather medical, psychological, psychiatric, educational, and vocational reports about an applicant and that they had 90 days to find someone eligible for benefits. She admitted that a preliminary diagnostic study was required to determine eligibility, and to do so, medical release forms must be signed by applicants. VRS are required to conduct a thorough assessment for determining an applicant's VR needs before developing an IPE.²⁵

Employee agreed that MB presented Dr. Moskowitz's²⁶ report recommending that a neurosurgeon familiar with myelomeningocele evaluate MB's gastrointestinal impairment.²⁷ Employee argued that the doctor concluded that MB had a disability and that was all she needed as a VRS. When confronted with Dr. Powell's²⁸ report indicating that MB was not ready to go back to work for at least 30 days, Employee admitted that despite Dr. Powell's opinion, she had concluded that MB was ready to go back to work so long as a personal assistant was provided.

Employee admitted that she based her determination that MB was disabled solely on the reports of Dr. Moskowitz, Dr. Powell, and Dr. Wilks.²⁹ Based on these, Employee developed a

24 Agency Exhibit 29.

25 Agency Exhibit 51.

26 Agency Exhibit 54 indicates that Dr. Moskowitz, MB's doctor, is an orthopedic surgeon.

27 Agency Exhibit 29.

28 Agency Exhibit 30. Dr. Powell is MB's behavioral therapist.

29 Agency Exhibit 31. Dr. Wilks summarized MB's ailments in her report.

certificate of eligibility and financial information report before developing an IPE for MB. She pointed out that Agency's Human Capital Administrator Gria Hernandez approved MB's request for a personal assistant on June 10, 2014, but conceded that it would be at MB's own expense.³⁰

On the basis of those documents, Employee authorized Agency to pay for a personal assistant, a new wheelchair, and transportation services for MB within 2.5 hours of seeing her. Employee requested additional medical assessments of MB but did not feel the need to wait for their results before authorizing these services for MB. She admitted that she could not recall any other applicant whose application she approved so speedily. Later, upon cross-examination, Employee testified that she could recall three other instances. Employee explained that while MB needed more medical evaluation for treatment, there was no need for more examinations to determine that MB was disabled and in need of assistance.

b. "MB" testified (February 17, 2016, Tr. p. 11 - 50) as follows.

MB testified that she worked as a vocational adviser for Agency for about 5 years. She knew Employee but did not consider her as a personal friend. MB stated that as an employee, Agency had provided rehabilitation services to her in the form of a special chair, a computer equipped with talking software, a scooter, due to her spina bifida,³¹ learning problems, and mental health condition.

MB testified that she had a work accident that caused her physical and mental problems. Upon the advice of her doctor, Agency provided her with a personal attendant at work for three to four weeks to assist her in going to the bathroom. For mobility, MB uses crutches, a walker, a scooter, and a wheelchair.

On June 27, 2014, MB sought rehabilitation services from Agency. Employee assisted her because they both spoke in Spanish. Her session with Employee lasted between 3 and 4 hours whereby she provided documentation regarding her medical needs so that she could work part-time starting July 1, 2014. Employee promised her a personal assistant. However, Agency did not provide her with a personal assistant, so she had to leave her job. MB testified that Gria Hernandez, the human rights director of the Rehabilitation Services approved her request for a personal assistant, but that Agency would not pay for one.

Because she felt that Agency did not accommodate her requests for work-related assistance, MB filed complaints with the Office of Administrative Hearings and the Office of Human Rights. MB met with her behavioral therapist monthly between September 2011 and

30 Agency Exhibit 52.

31 A birth defect where there is incomplete closing of the backbone and membranes around the spinal cord.

2013 due to her stress from feeling bullied by her supervisor at work. Finally, MB resigned her position on October 24, 2014, citing ongoing health issues. MB started receiving Social Security disability benefits in September 2015.

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

Whether Agency has proven, by a preponderance of the evidence, that Employee's actions constitute cause for taking an adverse action.

Agency's charges against Employee rests on its allegations that Employee performed her job as a VRS improperly on MB's application. Agency maintains that Employee had undue bias and sympathy (which Agency characterized as a conflict of interest) towards MB, a fellow employee, and rushed to deem MB eligible for assistance without performing the requisite due diligence required.

Employee denies any such bias and declares that she had the professional knowledge and experience to determine that MB deserved and needed immediate vocational rehabilitation services from Agency despite a doctor's note that MB first consult with a specialist regarding her gastrointestinal impairment.

Essentially, this boils down to whether or not Employee's actions regarding MB's application meets Agency's performance standards. Employee insists that she did, while her superiors and fellow VRS belie this claim.

Based on the witnesses' demeanor during testimony and the documentary evidence of record, I find by a preponderance of the evidence that Agency's witnesses are more credible than Employee. Although I do not find evidence of a conflict of interest³² as Employee did not do anything for her own benefit, I do find evidence that Employee was moved by MB's situation to improperly rush the premature approval of benefits. Thus, I do find convincing evidence that Employee gave preferential treatment to MB, thereby supporting Agency's charge of any other on-duty or employment related act that is not arbitrary or capricious. More importantly, I find that Employee failed in her duty to properly process MB's application for Agency services. Despite knowing that MB's doctor recommended further evaluation by a different specialist, and another doctor's conclusion that MB was not ready to work, Employee went ahead and approved services for MB.

I find sufficient evidence of malfeasance, which Agency defined as misuse of public

³² Term used to describe the situation in which a public official or fiduciary who, contrary to the obligation and absolute duty to act for the benefit of the public or a designated individual, exploits the relationship for personal benefit, typically pecuniary. Source: Dictionary by Farlex.

funds. At the time Employee obligated Agency services for MB, none of the three medical reports Employee relied upon had recommended the use of a personal assistant for MB. Instead, Employee simply relied on MB's expressed desire for one. Thus I find that Employee engaged in the misuse of funds when she authorized public funds to hire a personal assistant for MB in the absence of a verified evidence of the need for such.

Based upon the above evidence, I also find that Employee's conduct amounted to misfeasance, an on-duty or employment related act that interfered with the efficiency or integrity of government operations. Agency's written protocols clearly state that Employee had a duty to ensure that claims for vocational rehabilitation services must be properly vetted and all medical evaluations be complete before obligating Agency for services. Instead, Employee was careless in her work performance, approving services without due diligence.

Accordingly, I conclude that the Agency has met its burden of establishing cause for taking adverse action.

If so, whether Agency's penalty was appropriate under the circumstances.

As this Office has stated in the matter of *Huntley v. Metropolitan Police Department*,³³ the primary responsibility for managing and disciplining Agency's work force is a matter entrusted to Agency, not this Office. Our scope of review as to the appropriateness of a penalty is limited to a determination of whether the penalty is within the range allowed by law, regulation and any applicable table of penalties; whether the penalty is based on a consideration of the relevant factors, and whether there has been a clear error of judgment by the agency.

When assessing the appropriateness of a penalty, this Office will leave Agency's penalty undisturbed when it is satisfied, on the basis of the charges sustained, that the penalty is appropriate to the severity of the employee's actions and is clearly not an error of judgment.

Based on the Table of Penalties as stated in 6 DCMR, Chapter 16, General Discipline and Grievances, the penalty for the first offense of misfeasance is a fifteen-day suspension. The penalty for a first offense of any other on-duty or employment related act that is not arbitrary or capricious ranges from a reprimand to a fifteen-day suspension. The penalty for either a first or second offense of malfeasance includes removal. Here, Employee has a prior history of malfeasance. This factor points to the appropriateness of Agency's penalty of termination. Further, the penalty is clearly not an error of judgment. Accordingly, I conclude that Agency's action should be upheld.

³³ OEA Matter No. 1601-0111-91, *Opinion and Order on Petition for Review*, (March 18, 1994).

ORDER

It is hereby ORDERED that Agency's action is upheld.

JOSEPH E. LIM, Esq.
Senior Administrative Judge