

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. DR-03-57
)	
LEWIS W. POE,)	ORDER NO. 1144
)	
Petitioner.)	ORDER DISMISSING PETITION FOR
)	DECLARATORY RULING
)	

ORDER DISMISSING PETITION FOR DECLARATORY RULING

On October 31, 1994, LEWIS W. POE (POE) filed a Petition for Declaratory Ruling with the Hawaii Labor Relations Board (Board). In his petition, POE states that he filed a Petition for Declaratory Ruling with the Board in Case No. DR-03-55. POE alleges that on October 12, 1994, the Hawaii Government Employees Association (HGEA), which was not a party or an intervenor to that proceeding,¹ filed a motion to continue the hearing scheduled on the declaratory ruling petition which was either illegal or improper. On October 18, 1994, the Board granted the motion to continue hearing which POE also alleges was illegal or improper.

Thus, POE seeks an interpretation of Administrative Rules §§ 12-42-8(g)(3) and 12-42-8(g)(14) and Order No. 1114, dated October 18, 1994.

Administrative Rules § 12-42-9(f) provides with respect to declaratory rulings by the Board as follows:

(f) The board may, for good cause, refuse to issue a declaratory order. Without limiting

¹The HGEA was, at the time of its motion, an applicant for intervention which was subsequently granted by the Board in the same order which granted the continuance of the hearing.

the generality of the foregoing, the board may so refuse where:

(1) The question is speculative or purely hypothetical and does not involve existing facts or facts which can reasonably be expected to exist in the near future.

(2) The petitioner's interest is not of the type which would give the petitioner standing to maintain an action if such petitioner were to seek judicial relief.

(3) The issuance of the declaratory order may adversely affect the interests of the board or any of its officers or employees in a litigation which is pending or may be expected to arise.

(4) The matter is not within the jurisdiction of the board.

It is clear from this provision that the Board may decline to issue a declaratory ruling for good cause. While this matter could fall within the parameters of subsection (3) which relates to pending litigation, the Board, in its discretion, hereby declines to issue a declaratory ruling in this case for the following reason.

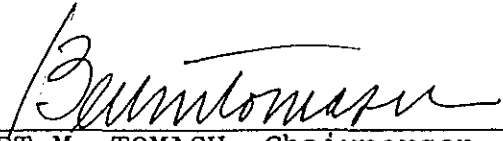
Petitioner clearly seeks a reconsideration or an explanation of the Board's previous ruling on a motion for continuance in a matter which is still pending before it. As the matter was of a procedural nature, the Board declines the opportunity to explain its ruling to the Petitioner by these means. If the Petitioner desires to challenge the Board's ruling in that case, he should seek his appropriate judicial remedies at the appropriate time.

The Board therefore exercises its discretionary authority and dismisses the instant petition for good cause.

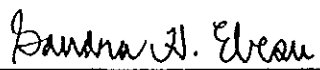
LEWIS W. POE; CASE NO. DR-03-57
ORDER NO. 1144
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DATED: Honolulu, Hawaii, January 25, 1995.

HAWAII LABOR RELATIONS BOARD


BERT M. TOMASU, Chairperson


RUSSELL T. HIGA, Board Member


SANDRA H. EBESU, Board Member

Copies sent to:

Lewis W. Poe
Joyce Najita, IRC