

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)
STEPHEN K. YAMASHIRO,)
Mayor, County of Hawaii,)
Complainant,)
and)
UNITED PUBLIC WORKERS, AFSCME,)
LOCAL 646, AFL-CIO, et al.,)
Respondents.)

CASE NO. CU-01-120

ORDER NO. 1312

ORDER CONSOLIDATING CASES
FOR DISPOSITION; NOTICE OF
HEARING ON MOTIONS TO DIS-
MISS OR FOR SUMMARY JUDG-
MENT

In the Matter of)
BRADLEY SILVA,)
Complainant,)
and)
UNITED PUBLIC WORKERS, AFSCME,)
LOCAL 646, AFL-CIO; GARY)
RODRIGUES, State Director,)
United Public Workers; CLIFFORD)
UWAINE, United Public Workers)
and HERBERT R. TAKAHASHI, ESQ.,)
Respondents.)

CASE NO. CU-01-122

ORDER CONSOLIDATING CASES FOR DISPOSITION; NOTICE OF
HEARING ON MOTIONS TO DISMISS OR FOR SUMMARY JUDGMENT

On February 13, 1996, Complainant STEPHEN K. YAMASHIRO, Mayor, County of Hawaii (County or Employer), by and through his attorney, filed a prohibited practice complaint against the UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW or Union); GARY W. RODRIGUES, State Director, UPW (RODRIGUES); CLIFFORD UWAINE, UPW (UWAINE) and HERBERT R. TAKAHASHI, Esq. (TAKAHASHI), in Case

No. CU-01-120 with the Hawaii Labor Relations Board (Board). Complainant Employer alleged that the above-named Respondents printed an article in the UPW publication, Malama Pono, which referred to documents in an employee's personnel file, including the employee's job performance report. Thus, the County alleged that Respondents violated § 89-13(b)(4), Hawaii Revised Statutes (HRS).

Thereafter, on February 21, 1996, Respondent TAKAHASHI filed a motion to dismiss the complaint and/or for summary judgment with the Board. TAKAHASHI contends that the complaint should be dismissed or, in the alternative, summary judgment should be entered for TAKAHASHI because Complainant YAMASHIRO lacks standing to maintain this action; the complaint fails to name indispensable parties; the complaint fails to state a claim for relief against TAKAHASHI under §§ 89-16.5 and 89-13(b)(4), HRS; the complaint fails to state a claim for relief under § 89-13(b)(3), HRS and there are no genuine issues of material fact in dispute and Respondent is entitled to judgment as a matter of law.

Also on February 21, 1996, Respondents RODRIGUES, UWAINÉ and the UPW filed a similar motion to dismiss complaint or, in the alternative, for summary judgment. Complainant YAMASHIRO filed a memorandum in opposition to Respondents' motions on March 29, 1996. The Board scheduled a hearing on the respective motions for April 4, 1996 at 9:00 a.m. in the Board's hearings room, Room 203, 550 Halekauwila Street, Honolulu, Hawaii.

On March 20, 1996, BRADLEY SILVA (SILVA), by and through his representative, filed a prohibited practice complaint against

the same Respondents with the Board in Case No. CU-01-122. Complainant SILVA alleged that Respondents disclosed that he had received an unsatisfactory job performance rating in the UPW paper, Malama Pono, in violation of § 89-16.5, HRS. In addition, SILVA alleges that the UPW should have filed charges against the County on his behalf if the Employer first published the information.

On March 25, 1996, Respondent TAKAHASHI filed a motion to dismiss complaint and/or for summary judgment with the Board. TAKAHASHI contends that the complaint failed to name indispensable parties; the complaint fails to state a claim for relief under §§ 89-16.5 and 89-13(b)(4), HRS; the complaint fails to state a claim for relief under § 89-13(b)(3), HRS; the claim is barred by the 90-day statute of limitations and there are no genuine issues of material fact in dispute and Respondent is entitled to judgment as a matter of law.

On March 27, 1996, Respondents RODRIGUES, UWAINÉ and UPW filed a similar motion to dismiss complaint and/or for summary judgment.

After reviewing the complaints filed in these cases, the Board finds that the complaints involve substantially the same parties and same central issues. The Board further finds that consolidation of the proceedings would be conducive to the proper dispatch of business and the ends of justice and will not unduly delay the proceedings. Pursuant to Administrative Rules § 12-42-8(g)(13), the Board on its own initiative hereby consolidates these complaints and the proceedings thereon for disposition.

YOU ARE HEREBY NOTIFIED that the Board, pursuant to §§ 89-5(b)(4) and 89-14, HRS and Administrative Rules §§ 12-42-49 and 12-42-8(g), will conduct a hearing on the foregoing motions on April 10, 1996 at 1:30 p.m. by conference call. Representatives for Respondents TAKAHASHI, RODRIGUES, UWAINÉ and UPW are requested to appear at the Board's hearings room, Room 203, 550 Halekauwila Street, Honolulu, Hawaii 96813. Representatives for Complainants YAMASHIRO and SILVA will be contacted at their respective telephone numbers on file with the Board unless the Board is otherwise notified.

DATED: Honolulu, Hawaii, April 4, 1996.

HAWAII LABOR RELATIONS BOARD



RUSSELL T. HIGA, Board Member



SANDRA H. EBESU, Board Member

Copies sent to:

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