

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

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| In the Matter of |) | CASE NO. DR-03-65 |
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| LEWIS W. POE, |) | ORDER NO. 1532 |
| |) | |
| Petitioner. |) | ORDER DISMISSING DECLARA- |
| <hr/> |) | TORY RULING PETITION |

ORDER DISMISSING DECLARATORY RULING PETITION

On July 2, 1997, Petitioner LEWIS W. POE (POE) filed a petition for declaratory ruling with the Hawaii Labor Relations Board (Board). In his petition, POE requested a declaratory ruling as to the applicability of Administrative Rules §§ 12-42-9(e) and 12-42-8(g)(14)(B)(iii) involving the effect of any Board decision in Case No. DR-03-64, which pertains to Unit 03, upon the University of Hawaii Professional Assembly (UHPA)'s interest in Unit 07 and the grievance provisions of Unit 07 and Administrative Rules § 12-42-9(g).

POE stated that he is a member of Unit 03 and on June 5, 1997, he filed a Petition for Declaratory Ruling with the Board in Case No. DR-03-64 and UHPA filed a petition for intervention in that case. POE contends that in Decision No. 371, Lewis W. Poe, 5 HLRB 546 (1996), the Board concluded that POE lacked standing to maintain an action involving the collective bargaining agreements covering other bargaining units. POE contends that Unit 07 is not associated with Unit 03 matters and is not affected by the provisions of the grievance procedure which pertain only to Unit 03 members. Thus, POE contends that "UHPA cannot legally intervene in DR-03-64 because any decision therein has no effect on BU 07

interests." POE also argues with respect to Administrative Rules § 12-42-9(g), a "reasonable time" means less than ten months after submission of the petition for declaratory ruling.

It is clear from a fair reading of the instant petition that POE challenges UHPA's interest as the Unit 07 exclusive representative to intervene in the DR-03-64 proceedings and seeks to collaterally attack a favorable Board ruling on UHPA's petition for intervention. POE also seeks an explanation or reconciliation of two Board rulings, one of which is in a case still pending before the Board. POE contends that in Decision No. 371,¹ the Board ruled, inter alia, that POE lacked standing to assert the rights of members of other bargaining units where his complaint regarding Unit 03 was moot. In this petition, POE argues similarly, that UHPA has no interest as the exclusive representative of Unit 07 to participate in a proceeding (DR-03-64) involving the Unit 03 collective bargaining agreement.

Previously in Order No. 1144, dated January 25, 1995, in Case No. DR-03-57, Lewis W. Poe, the Board dismissed a declaratory ruling petition filed by POE because POE sought reconsideration or explanation of a ruling on a motion for continuance in another matter which was pending before the Board. The Board declined to explain its ruling in the subsequent declaratory ruling proceeding stating, that if POE desired to challenge the Board's ruling in a case, he should seek his judicial remedies in the proper case at the appropriate time. The Board therefore refused to issue the

¹POE appealed the First Circuit Court's affirmance of Decision No. 371 in S.C. No. 20615. The case is being briefed. However, the specific issue on POE's standing is not before the Court.

declaratory order in accordance with Administrative Rules § 12-42-9(f). That rule refers to declaratory ruling proceedings and provides as follows:

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

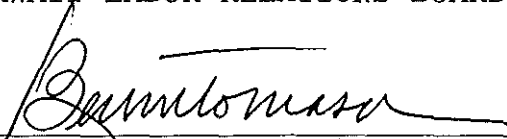
It is clear from the foregoing rule that the Board may decline to issue a declaratory ruling in a case for good cause. In this case, the Board finds that POE again seeks an explanation of the Board's ruling on an issue raised in another pending case and/or to collaterally attack a ruling favorable to UHPA in that case. It would be unfair for the Board to permit POE to challenge UHPA's standing in Case No. DR-03-64 in this proceeding where UHPA has no notice of POE's apparent objection to its intervention and no opportunity to respond to his concerns.

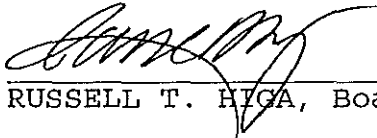
For these reasons, the Board, in its discretion, hereby dismisses the instant petition for good cause.

LEWIS W. POE; CASE NO. DR-03-65
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DATED: Honolulu, Hawaii, September 30, 1997 .

HAWAII LABOR RELATIONS BOARD


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