

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. DR-69
MEGUMI "LEFTY" MURAMOTO,)	ORDER NO. 1592
)	
Petitioner,)	ORDER DISMISSING PETITION
)	FOR DECLARATORY RULING
and)	
)	
AMERICAN FEDERATION OF STATE,)	
COUNTY AND MUNICIPAL EMPLOYEES)	
(AFSCME),)	
)	
Intervenor.)	
)	

ORDER DISMISSING PETITION FOR DECLARATORY RULING

On November 12, 1997, MEGUMI "LEFTY" MURAMOTO (MURAMOTO) filed the instant Petition for Declaratory Ruling with the Hawaii Labor Relations Board (Board). MURAMOTO alleges that he represents a group of State retirees concerned about the balance of power between labor and management in the public sector. MURAMOTO contends that such balance is undermined by alleged misleading statements made by the Hawaii Government Employees Association (HGEA) in a memorandum dated June 1, 1994 addressed to Oahu members of the HGEA Managerial and Confidential Employees Chapter. MURAMOTO contends that HGEA's claim in the memorandum that it represents excluded employees in grievances, appeals, classification actions, workers compensation claims and issues that come before the Legislature, City Council and Boards violate § 89-6, Hawaii Revised Statutes (HRS). MURAMOTO requests the Board to order the HGEA to cease and desist from claiming to represent excluded employees.

On November 19, 1997, the Board issued a notice of receipt of petition for declaratory ruling and set December 5, 1997 as the deadline for filing petitions for intervention in this proceeding. On December 4, 1997, the AMERICAN FEDERATION OF STATE, COUNTY and MUNICIPAL EMPLOYEES (AFSCME) filed a petition for intervention with the Board. The Board granted AFSCME's petition by Order No. 1569, dated December 22, 1997. Thereafter, on January 2, 1998, AFSCME, by and through its representative, filed a motion to dismiss the instant declaratory ruling with the Board. AFSCME contends that the petition should be dismissed because the Board lacks jurisdiction to rule on matters involving the representation of employees excluded from collective bargaining, the petition is without merit, and Petitioner lacks standing to request a declaratory ruling.

On January 9, 1998, the Board held a conference with representatives of Petitioner and AFSCME. At the conference, Petitioner, by and through its representative, objected to Board Member Chester C. Kunitake's consideration of this case citing a conflict of interest.¹ Petitioner also contended, inter alia, that the Board has jurisdiction over employees excluded from collective bargaining. Petitioner contends that it is illegal for AFSCME to recruit managerial employees for representational purposes. Petitioner states that under Administrative Rules § 12-42-9, "any interested person" can petition the Board for a declaratory order. In addition, pursuant to Administrative Rules

¹In order to avoid the appearance of a conflict in this case, Member Kunitake did not participate in the deliberations of this matter.

§ 12-42-42, "any party in interest" may file a prohibited practice complaint with the Board. Thus, Petitioner argues that the Board has jurisdiction to render a declaratory order in this case.

In the instant petition, MURAMOTO designated the following specific provisions of Chapter 89, HRS, at issue:

HRS Chapter 89-6(c)
HRS Chapter 89C
HRS chapter 76-101-(1)
All above deal with excludeds.

Petitioner objects to the AFSCME's overtures to represent employees excluded under Chapter 89, HRS, and requests the imposition of sanctions against the employee organization.

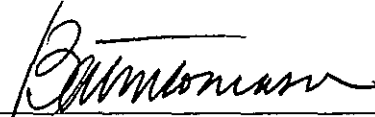
With respect to the Board's jurisdiction, Section 89-1, HRS, provides that the Board was created to administer the provisions of Chapters 89 and 377, HRS. There is no statutory authority for the Board to interpret the provisions of Chapters 89C and 76, HRS, as Petitioner requests. Thus, the Board lacks jurisdiction over Petitioner's claims regarding those statutes.

Petitioner also contends that the HGEA's claims to represent excluded employees are misleading and violate § 89-6(c), HRS. Section 89-6(c), HRS, sets forth the categories of employees who are excluded from collective bargaining and the coverage of Chapter 89, HRS. Section 89-6(c), HRS, does not expressly prohibit excluded employees from organizing but their activities are expressly excluded from the purview of Chapter 89, HRS. Thus, the Board concludes that it also lacks jurisdiction over the instant petition insofar as it pertains to the organizing activities of excluded employees.

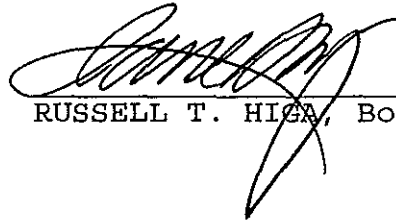
Based upon the foregoing, the Board hereby dismisses the instant Petition for Declaratory Ruling.

DATED: Honolulu, Hawaii, February 10, 1998.

HAWAII LABOR RELATIONS BOARD



BERT M. TOMASU, Chairperson



RUSSELL T. HIGA, Board Member

Copies sent to:

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