

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

CHESTER KAHALEPUNA,

Complainant,

and

MARK NAKAGAWA, Assistant Chief of
Police/Administrative Bureau, Honolulu
Police Department, City and County of
Honolulu; STANLEY AQUINO, Chairman
of the Oahu Chapter, State of Hawaii
Organization of Police Officers; and STATE
OF HAWAII ORGANIZATION OF POLICE
OFFICERS,

Respondents.

CASE NOS.: CE-12-793
CU-12-313

ORDER NO. 2833

ORDER DENYING MOTIONS FOR
PARTICULARIZATION

ORDER DENYING MOTIONS FOR PARTICULARIZATION

On February 7, 2012, Complainant CHESTER KAHALEPUNA (Complainant), *pro se*, filed a Prohibited Practice Complaint (Complaint) against the above-named Respondents with the Hawaii Labor Relations Board (Board) alleging that Respondents violated Hawaii Revised Statutes (HRS) § 89-13(a)(1) and (b)(1).

Thereafter, on February 14, 2012, Respondents STANLEY AQUINO (Aquino) and the STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS (SHOPO) (collectively SHOPO Respondents) filed a Motion for Particularization of the Complaint with the Board requesting that the Complainant specify what acts were allegedly committed by SHOPO Respondents and when the acts occurred. SHOPO Respondents allege that the Complaint is vague and indefinite. SHOPO Respondents contend that without the requested particularization, the Board lacks jurisdiction to hear the Complaint, and the Complainant is in the wrong forum. Thus, SHOPO Respondents request that the Board order Complainant to file a statement with specific information clarifying the Complaint or, alternatively, dismiss the Complaint if Complainant fails to provide the particularization ordered by the Board.

Also on February 14, 2012, Respondent MARK NAKAGAWA, Assistant Chief, of Police/Administrative Bureau, Honolulu Police Department (HPD), City and County of Honolulu (City) filed a Motion for Particularization of Chester Kahalepuna's

Complaint with the Board. The City alleges that the Complaint is so vague and indefinite that Respondent cannot reasonably be required to frame an answer at this time and seeks an order requiring Complainant to file a statement supplying information setting forth the specific actions the City has taken and the alleged specific harm caused by the actions. The City also requested the Board toll the City's current deadline to file its answer until a date to be determined by the service of the Board's order regarding the instant Motion for Particularization.

Upon reviewing the instant Complaint, Complainant alleges, *inter alia*, that he is a sergeant in the HPD and the certified lead motorcycle instructor assigned to the motorcycle detail of the Traffic Division; that he sought a five (5)-year extension of his five (5)-year rotation; that he sought SHOPO's approval in order to obtain the extension prior to proceeding through the HPD; that in March 2011, Complainant was informed that SHOPO approved the proposal to extend Complainant's rotation; that during the same time, Complainant recommended the removal of an officer from the program who had failed to meet requirements of training and the officer grieved his removal from the program; that SHOPO represented the officer in an arbitration and the arbitrator found in the grievant's favor, awarding him the first available position in the division; that during this time period, other extensions of rotations were approved; that in December 2011, the HPD approved Complainant's extension proposal; that the findings of the HPD Board along with policy changes were forwarded to SHOPO for approval in the first week of January 2012, and that SHOPO decided not to approve the extension but to rotate Complainant out of his position and allow the grievant to fill Complainant's position pursuant to the arbitration award. Complainant also alleges that he was told that the matter was considered at a recent SHOPO board meeting and that SHOPO would approve Complainant's proposal for extension after Complainant's transfer from the division on February 19, 2012. Complainant contends that he is the only officer within HPD certified and qualified for the lead motorcycle officer position and that Respondents interfered with his rights by failing to approve his proposal for extension in a timely manner.

Hawaii Administrative Rules (HAR) § 12-42-45(b) provides in part:

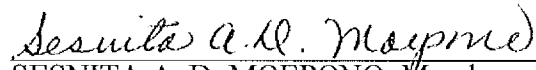
If the charge is believed by a respondent to be so vague and indefinite that the respondent cannot reasonably be required to frame an answer thereto, such respondent may, within five days after service of the complaint, file with the board a motion for particularization of the complaint, requesting that the complainant file a statement supplying specific information.

Based on a fair reading of the instant Complaint, the Board finds that the allegations are not "so vague and indefinite" within the meaning of HAR § 12-42-45(b) that Respondents cannot reasonably frame an answer to the allegations. Accordingly, the

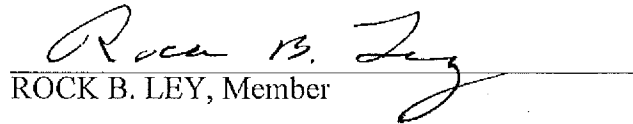
Respondents' motions for particularization are denied. Respondents shall file the original and five copies of their respective answers, with certificate of service on all parties, with the Board within ten days of service of this Order. Failure of Respondents to timely file and serve an answer may constitute an admission of the material facts alleged in the Complaint filed on February 7, 2012, and a waiver of a hearing.

DATED: Honolulu, Hawaii, February 27, 2012.

HAWAII LABOR RELATIONS BOARD



SESNITA A. D. MOEPONO, Member



ROCK B. LEY, Member

Copies sent to:

Chester Kahalepuna
Wade Tony Souza
Duane W.H. Pang, Deputy Corporation Counsel

