



**EFiled: Oct 12 2017 12:48PM HAST
Transaction ID 61238422
Case No. 17-CE-10-900, 17-CU-10-356**

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

CRAIG PINKNEY,

Complainant,

and

DEPARTMENT OF PUBLIC SAFETY,
HAWAII COMMUNITY CORRECTIONAL
CENTER, State of Hawaii,

Respondent.

CASE NO.: 17-CE-10-900

ORDER NO.: 3295

ORDER CONSOLIDATING CASES AND
DENYING UPW'S MOTION FOR
JOINDER; AND NOTICE OF
CONSOLIDATED HEARING

In the Matter of

CRAIG PINKNEY,

Complainant,

and

UNITED PUBLIC WORKERS, AFSCME,
LOCAL 646, AFL-CIO,

Respondent.

CASE NO.: 17-CU-10-356

ORDER CONSOLIDATING CASES DENYING UPW'S MOTION
FOR JOINDER; AND NOTICE OF CONSOLIDATED HEARING

On October 2, 2017, Complainant CRAIG PINKNEY (Complainant) filed a prohibited practice complaint against Respondent DEPARTMENT OF PUBLIC SAFETY, HAWAII COMMUNITY CORRECTIONAL CENTER, State of Hawaii (PSD or Employer) in Board Case No. 17-CE-10-900. Also on October 2, 2017, Complainant filed a prohibited practice complaint against Respondent UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW or Union) in Board Case No. 17-CU-10-356. On October 5, 2017, the UPW filed a "Motion for

Joinder of Department of Public Safety, State of Hawaii (Employer) as Respondent” (Motion for Joinder) in Board Case No. 17-CU-10-356, asserting the Complainant filed a claim against the UPW that was a “hybrid claim” in nature, which involves interdependent claims against the Union and Employer.

Hawaii Administrative Rules (HAR) § 12-42-8(g)(13) provides that the Board may consolidate for hearing or other purposes, or may contemporaneously consider two or more proceedings which involve substantially the same parties or issues, if it finds that such consolidation of proceedings or contemporaneous consideration will be conducive to the proper dispatch of its business and to the ends of justice, and will not unduly delay proceedings.

The Board finds that the two cases brought by Complainant, viewed together, indicates Complainant is alleging a “hybrid” case against the Union and the Employer, and that both cases will likely involve substantially similar issues and witnesses. The Board therefore finds that consolidation of the two cases for hearing and disposition will be conducive to the proper dispatch of the Board’s business and to the ends of justice, and will not unduly delay proceedings nor prejudice the presentation of either case. Therefore, **THE BOARD HEREBY ORDERS THE CONSOLIDATION OF CASE NOS. 17-CE-10-900 AND 17-CU-10-356 FOR HEARING AND DISPOSITION.** Accordingly, the UPW’s Motion for Joinder is hereby **DENIED** as moot.

On October 3, 2017, the Board issued notices to the parties in both cases, setting forth hearing dates and other deadlines. The Hearing on the Merits in Case No. 17-CU-10-356 was scheduled for 9:00 a.m. on November 8, 2017. The Hearing on the Merits in Case No. 17-CE-10-900 was scheduled for 9:00 a.m. on November 9, 2017. Because the Board has consolidated the Hearing on the Merits in these two cases, the Board hereby notices and clarifies that the single, consolidated, **HEARING ON THE MERITS will be held at 9:00 A.M. on NOVEMBER 8, 2017**, in the Board’s hearing room located at 830 Punchbowl Street, Room 434, Honolulu, Hawaii, 96813. The Board will reserve the date of November 9, 2017, in case the consolidated Hearing on the Merits requires a second day to complete.

The Board further notes that Hawaii Revised Statutes (HRS) § 89-5(j) provides that, “For the purpose of minimizing travel and per diem expenses for parties who are not located on Oahu” the Board “shall consider conducting its proceedings on another island whenever it is more cost efficient in consideration of the parties and witnesses involved.” In this consolidated proceeding, the Board is not able to make a determination at this time as to whether it should conduct the

Hearing on the Merits on the island of Oahu or the island of Hawaii. The Prehearing Conferences are currently set for October 19, 2017, and the parties' Witness Lists are due on November 2, 2017. The parties are hereby put on notice that following the Prehearing Conferences and receipt of the parties' Witness Lists, the Board will make a determination as to whether or not to move the hearing location to the island of Hawaii, and to reschedule the Hearing on the Merits if necessary to accommodate such relocation.

All other deadlines and provisions contained in the Board's notices issued to the parties on October 3, 2017, remain in effect.

DATED: Honolulu, Hawaii, October 12, 2017.

HAWAII LABOR RELATIONS BOARD



Esanita A. D. Moepono
ESNITA A.D. MOEPONO, Member

J.N. Musto
J.N. MUSTO, Member

Copy:

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Case Nos. 17-CE-10-900 and 17-CU-10-356 – Pinkney v. PSD and UPW – Order Consolidating Cases and Denying UPW's Motion for Joinder; and Notice of Consolidated Hearing.

Order No.:3295