

STATE OF HAWAI'I

HAWAI'I LABOR RELATIONS BOARD

In the Matter of

GORDON LESLIE; BERNARD KUAMOO;  
GEORGE SHERIDAN; DEANGELO  
DIXON; and FELICIANO SAMSON,

Complainants,

and

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

Respondent.

CASE NO(S). 20-CU-10-381

ORDER NO. 3598

ORDER CONSOLIDATING CASE NOS.  
20-CU-10-381, 20-CE-10-943, AND  
20-CU-10-382

In the Matter of

GORDON LESLIE; BERNARD KUAMOO;  
GEORGE SHERIDAN; DEANGELO  
DIXON; WYATT LEE; and FELICIANO  
SAMSON,

Complainants,

and

DAVID Y. IGE, Governor, State of Hawai'i;  
NOLAN P. ESPINDA, Director, Department  
of Public Safety, State of Hawai'i; SCOTT  
HARRINGTON, Warden, Halawa  
Correctional Facility; LYLE ANTONIO,  
Deputy Warden, Halawa Correctional  
Facility; CALVIN MOCK, Chief of Security,  
Halawa Correctional Facility; JANE AND  
JOHN DOE 1-25, State of Hawai'i,  
Department of Public Safety,

Respondents.

CASE NO(S). 20-CE-10-943

In the Matter of

CASE NO(S). 20-CU-10-382

GORDON LESLIE; BERNARD KUAMOO;  
GEORGE SHERIDAN; DEANGELO  
DIXON; WYATT LEE; and FELICIANO  
SAMSON,

Complainants,

and

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

Respondent.

ORDER CONSOLIDATING CASE NOS. 20-CU-10-381, 20-CE-10-943, AND 20-CU-10-382

Case No. 20-CU-10-381

On April 2, 2020, Complainants GORDON LESLIE (Leslie or Complainant) Fil[ing] this Class Action Complaint on Behalf of ALL HCF Sergeants and Lieutenants, BERNARD KUAMOO (Kuamoo or Complainant), GEORGE SHERIDAN (Sheridan or Complainant), DEANGELO DIXON (Dixon or Complainant), and FELICIANO SAMSON (Samson or Complainant, and, collectively with Leslie, Kuamoo, Sheridan, Dixon, and Samson, Complainants) filed with the Hawai'i Labor Relations Board (Board) a prohibited practice complaint against Respondent UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW) (CU-10-381 Complaint).

The CU-10-381 Complaint alleges, among other things, that UPW Director Dayton Nakanelua (Nakanelua or Respondent) and Director Nolan Espinda, Department of Public Safety, State of Hawai'i (Espinda or Respondent, and, collectively with Nakanelua, Respondents) collaborated and entered into a Settlement Agreement, dated June 12, 2015 (SA), which reduces overtime (OT) by excluding the classes of Adult Correctional Officers (ACO) IV (Sergeants) and ACO V (Lieutenants) from the OT equation while allowing ACO IIIs to work OT and temporarily assigning ACO IIIs to all ACO IV OT openings. The CU-10-381 Complaint further alleges that collaborating on and entering into the SA violated Hawai'i Revised Statutes (HRS) §§ 89-13(a)(8) and (b)(5) by violating the bargaining unit 10 (BU 10) collective bargaining agreement (BU 10 CBA) and HRS § 89-9(d) by agreeing to a proposal inconsistent with the merit principle or the principle of equal pay for equal work. The CU-10-381 Complaint also references HRS §§ 89-6(e), 89-10(a), and (d), as well as BU 10 CBA provisions 15, 15-20, 66, and 66-01.

Case No. 20-CE-10-943

On April 7, 2020, the Complainants and Complainant WYATT LEE (Lee or Complainant and, collectively with the other Complainants, Complainants) filed a prohibited practice complaint with the Board against DAVID Y. IGE, Governor, State of Hawai‘i (Ige or Respondent), Espinda; SCOTT HARRINGTON (Harrington or Respondent), Warden, Halawa Correctional Facility; LYLE ANTONIO (Antonio or Respondent), Deputy Warden, Halawa Correctional Facility; CALVIN MOCK (Mock or Respondent), Chief of Security, Halawa Correctional Facility; JANE AND JOHN DOE 1-25 (collectively with Ige, Espinda, Harrington, Antonio, and Mock as Employer Respondents), State of Hawai‘i, Department of Public Safety (CE-10-843 Complaint).

The CE-10-943 Complaint alleges, among other things, that the Complainants would like to join and file a claim in Board Case Nos. 16-CU-10-344 and 16-CU-10-345 or file a separate controversy for the ongoing violation by Nakanelua and Espinda for collaborating in the SA. The CE-10-943 further alleges that, through the other named Respondents, Nakanelua and Espinda violated HRS §§ 89-13(a)(8) and (b)(5) by violating the terms of the BU 10 CBA. The CE-10-943 Complaint also references HRS §§ 89-3, 89-6(e), 89-9(d), and 89-10(a) and (d). The CE-10-843 Complaint further alleges that the SA violated the BU 10 CBA (7/1/13-6/30/17) and the current BU 10 CBA (7/1/17-6/30/10), the Joint Message by the Governor and UPW State Director, other HRS provisions, and the Keith Hunter Arbitration, and an attached premise, which sets forth specific details regarding the facts and legal authorities upon which the allegations of the complaint are based and remedies requested.

Case No. 20-CU-10-382

On April 7, 2020, Complainants filed with the Board a prohibited practice complaint against the UPW that is substantially similar to the CE-10-943 Complaint (CU-10-382 Complaint, and collectively with the CU-10-381 and CE-10-943 Complaints, Complaints).

Consolidation

Hawai‘i Administrative Rules (HAR) § 12-42-8(g)(13) states:

(13) The board, on its own initiative or upon motion, 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 the proceedings.

Upon applying the foregoing HAR provision to the Complaints in these cases, the Board, upon its own initiative and in its discretion, finds that the criteria are met in this case for several reasons.

First, the issues in all three cases are substantially similar. While the only named Respondent in the CU-10-381 Complaint is the UPW, the allegations involve “collaborating and entering into” the SA by the UPW and the Employer. Although the CU-10-382 Complaint contains allegations against the UPW and the CE-10-943 Complaint contains allegations against the Employer, the allegations are substantially similar and broader in scope than those in the CU-10-381 Complaint. Nevertheless, all three Complaints contain claims involving the actions of the UPW and the Employer Respondents in collaborating in the SA. Therefore, the Board finds substantially similar issues in all three cases.

Second, the Complainants are exactly the same in all the cases, with the exception of Lee, who is not a Complainant in the CU-10-381 Complaint. The UPW is a Respondent in two of the cases, one of which involves substantially the same issues as Case No. 20-CE-10-382, which is brought against Employer representatives. Accordingly, the Board finds that the parties in the three cases are likewise substantially the same.

Finally, and most significantly, the Board finds that consolidation of the proceedings for hearing and disposition would be conducive to the proper dispatch of its business and to the ends of justice, Rather, than unduly delaying the proceedings, consolidation of the three cases will facilitate the expeditious handling of the proceedings of these three cases.

Accordingly, for the reasons set forth above, the Board holds, on its own initiative and in its discretion under HAR § 12-42-8(g)(13), that Case Nos. CU-10-381, CU-10-382, and CE-10-943 be consolidated for hearing and disposition.

ORDER

The Board orders that Case Nos. 20-CU-10-381, 20-CU-10-382, and 20-CE-10-943 are consolidated for hearing and disposition.

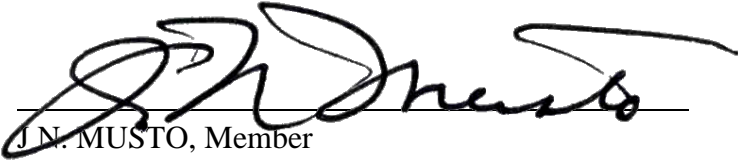
DATED: Honolulu, Hawai‘i, April 9, 2020.



HAWAII LABOR RELATIONS BOARD

*Marcus R. Oshiro*  
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MARCUS R. OSHIRO, Chair

  
SESNITA A.D. MOEPONO, Member

  
J.N. MUSTO, Member

Copies sent to:  
Gordon Leslie, Representative  
Feliciano Samson, Representative  
Governor David Ige, State of Hawai'i  
Department of Public Safety, State of Hawai'i  
James E. Halvorson, Deputy Attorney General  
Dayton Nakanelua, UPW

LESLIE, ET AL. v. UPW; LESLIE, ET AL. v. IGE, ET AL.; LESLIE, ET AL v. UPW  
CASE NO(S). 20-CU-10-381; 20-CE-10-943; 20-CU-10-382  
ORDER CONSOLIDATING CASE NOS. 20-CU-10-381, 20-CE-10-943, AND 20-CU-10-382  
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