

STATE OF HAWAI‘I

HAWAI‘I LABOR RELATIONS BOARD

In the Matter of

JONATHAN TAUM,

Complainant,

and

UNITED PUBLIC WORKERS, AFSCME  
LOCAL 646, AFL-CIO; and DEPARTMENT  
OF PUBLIC SAFETY, State of Hawai‘i,

Respondents.

CASE NOS. 17-CU-10-357  
17-CE-10-906

ORDER NO. 3479

ORDER GRANTING UNITED PUBLIC  
WORKERS, AFSCME, LOCAL 646,  
AFL-CIO’S MOTION TO DENY  
APPLICATION FOR ISSUANCE OF  
SUBPOENA DUCES TECUM TO  
NOLAN ESPINDA

ORDER GRANTING UNITED PUBLIC WORKERS, AFSCME,  
LOCAL 646, AFL-CIO’S MOTION TO DENY APPLICATION FOR  
ISSUANCE OF SUBPOENA DUCES TECUM TO NOLAN ESPINDA

On March 13, 2019, Complainant JONATHAN TAUM (Complainant or Taum) filed Complainant Jonathan Taum’s 12<sup>th</sup> Application for Issuance of Subpoena with the Hawai‘i Labor Relations Board (Board) requesting that the Board issue subpoenas to Nolan Espinda or Custodian of Records, Department of Public Safety (PSD) (Subpoena Duces Tecum).

On that same date, the Board issued the Subpoena Duces Tecum.

On March 19, 2019, Respondent UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW) filed the Motion to Deny Application for Issuance of Subpoena Duces Tecum (Motion to Deny Subpoena Duces Tecum) on, among other things, the ground that it would be premature for Taum to call Nolan Espinda as a rebuttal witness on May 9, 2019.

Hawai‘i Administrative Rules (HAR) § 12-42-8(g)(3)(C)(iii) provides that, “Answering affidavits, if any, shall be served on all parties...and shall be filed with the board...on all parties.”

On March 25, 2019, Complainant filed Complainant's Memorandum in Opposition to Union Respondent's Motion to Deny Application for Issuance of Subpoena Duces Tecum to Nolan Espinda Filed on March 18, 2019.

Respondent DEPARTMENT OF PUBLIC SAFETY, State of Hawai'i, filed no response to the Motion to Deny Subpoena Duces Tecum within the five days required by HAR § 12-42-8(g)(3)(C)(iii).

The Board construes UPW's Motion to Deny Subpoena Duces Tecum as a motion to quash the subpoena and grants the Motion on the ground that it is unreasonable at this stage of the proceedings, after Complainant rested his case and during the Respondents' presentation of their cases, for Complainant to subpoena Nolan Espinda or Custodian of the Records for PSD.

DATED: Honolulu, Hawai'i, March 29, 2019.



HAWAII LABOR RELATIONS BOARD

MARCUS R. OSHIRO, Chair

SESNITA A.D. MOEPONO, Member

J.N. MUSTO, Member

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