

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

DANIEL EDWARD PARKER,

Complainant(s),

and

~~UNITED PUBLIC WORKERS, AFSCME,
LOCAL 646, AFL-CIO~~ and DEPARTMENT
OF PUBLIC SAFETY, State of Hawaii,

Respondent(s).

CASE NO(S). ~~18-CU-10-370~~
 19-CE-10-923

ORDER NO. 3753

ORDER SETTING HEARINGS ON THE
MERITS REGARDING DEPARTMENT OF
PUBLIC SAFETY, STATE OF HAWAII'S
COMPLIANCE WITH DECISION NO. 502;
NOTICE OF HEARING ON THE MERITS

**ORDER SETTING HEARINGS ON THE MERITS REGARDING DEPARTMENT OF
PUBLIC SAFETY, STATE OF HAWAII'S COMPLIANCE WITH DECISION NO. 502**

On May 28, 2021, the Hawaii'i Labor Relations Board (Board) held a Status Conference regarding the Respondent DEPARTMENT OF PUBLIC SAFETY, State of Hawaii'i's (PSD) compliance with orders set forth in Decision No. 502. Complainant DANIEL EDWARD PARKER (Parker) appeared and was represented by counsel, and PSD was represented by counsel.

At the Status Conference, PSD requested that a hearing on the merits (HOM) be held on disputes regarding PSD's compliance with Decision 502 (Compliance HOM). The issues to be addressed at the Compliance HOM are the following:

1. What training is required for Complainant to return to work, including but not limited to the location and the training received by other Adult Correctional Officers III at Maui Community Correctional Center since his discharge on April 27, 2018, both COVID-related and non-COVID related?

2. What is the amount of the back pay award owed to Mr. Parker from his discharge on April 27, 2018 to the date of his reinstatement under Decision No. 502, including explanation and clarification of the discrepancies in the amount of back pay with interest shown on Exhibit B, filed on April 26, 2021; Exhibit E, filed on May 6, 2021; and Exhibit G, filed on May 27, 2021?

3. Whether PSD is entitled to mitigate this back pay award to Mr. Parker, including but not limited to the legal authority (statutory or case law) for such mitigation of back pay with interest awarded under Hawai'i Revised Statutes § 377-9(d)?

In preparation for the Compliance HOM, the Board orders the following:

1. The parties must submit a list of witnesses anticipated to be called for the Compliance HOM by **Monday, June 7, 2021 at 4:30 p.m.**
2. The parties may file Prehearing Briefs, limited to the issues to be addressed at the Compliance HOM by **Tuesday, June 8, 2021 at 4:30 p.m.**
3. The issue of attorney's fees and costs will be addressed in a separate order. However, Mr. Parker may supplement his motion for attorney's fees and costs to include any additional attorney's fees and costs, incurred for services rendered and costs for proceedings after Decision No. 502 was issued. Should the Board issue such an order prior to the conclusion of the Compliance HOM, Mr. Parker may file a second motion for attorney's fees and costs, rather than supplementing the original motion.

NOTICE OF HEARING ON THE MERITS

NOTICE IS GIVEN that, per HRS §§ 377-9, 89-5(i)(3), (4), and (5) and 89-14 and Hawai'i Administrative Rules §§ 12-42-46 and 12-42-49, the Board will hold an HOM at the place, time, and date listed below:

DATE AND TIME: Thursday, June 10, 2021 at 9:00 a.m.

LOCATION: Remote Zoom Hearing

Subject to the Board's discretion based on the Governor's Proclamations, in effect at the present time, all parties have the right to appear **videographically** at the HOM and to be represented by counsel or any other authorized person. The Board will provide the relevant call-in information to the parties.

Auxiliary aids and services are available upon request to the parties and representatives with disabilities. For TTY, dial 711, then ask for (808) 586-8616, the Hawai'i Labor Relations Board, within seven (7) days prior to a Board proceeding. For any other accommodation, please call the Board at (808) 586-8616.

DATED: Honolulu, Hawai'i, _____ May 28, 2021 _____.

HAWAI'I LABOR RELATIONS BOARD

MARCUS R. OSHIRO, Chair

SESNITA A.D. MOEPONO, Member

J N. MUSTO, Member

Copies sent to:

Matthew Padgett, Esq.

James Halvorson, Deputy Attorney General

PARKER v. PSD

CASE NO. 19-CE-10-923

ORDER SETTING HEARINGS ON THE MERITS REGARDING DEPARTMENT OF
PUBLIC SAFETY, STATE OF HAWAI'I'S COMPLIANCE WITH DECISION NO. 502;

NOTICE OF HEARING ON THE MERITS

ORDER NO. 3753