

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

STACY K. PAIO; DAYTON YOSHIDA;
ERNEST SUGUITAN; SAMUEL KAE0;
DONNELL ADAMS; LONNIE A.
MERRITT; MITSUO NAKAMOTO;
ARDEN D. COSTALES; WALLACE
KAHAPEA; and EMOSI MANAIA SEVAO,

Complainant(s),

and

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

Respondent(s).

CASE NO(S). 16-CU-10-344

ORDER NO. 3829

ORDER DISMISSING ALL REMAINING
ISSUES AND CLAIMS

In the Matter of

STACY K. PAIO; DAYTON YOSHIDA;
ERNEST SUGUITAN; SAMUEL KAE0;
DONNELL ADAMS; LONNIE A.
MERRITT; MITSUO NAKAMOTO;
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Complainant(s),

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

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CASE NO(S). 16-CU-10-345

ORDER DISMISSING ALL REMAINING ISSUES AND CLAIMS

On February 21, 2020, the Hawai‘i Labor Relations Board (Board) issued Decision No. 497, which was modified by two errata. Respondent UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (Respondent) appealed Decision No. 497 and its two errata to the First Circuit Court, State of Hawai‘i (circuit court) in Civil No. 1CCV-20-0000458 (Agency Appeal).

Decision No. 497 includes Order No. 4, which states:

4. Under HRS § 377-9(d) the Complainants are entitled to “orders in favor of employees making them whole, including back pay with interest, costs[.]”. Accordingly, any Complainant who seeks make whole remedies is required to submit a request [] within 45 days from the issuance of this Decision and Order, including but not limited to back pay with interest and costs, supported by an attached declaration setting forth the specific remedy sought (including dollar amounts) with appropriate justifications.

(Decision No. 497, Order No. 4).

Therefore, while Decision No. 497 is a final decision and order under Hawai‘i Revised Statutes (HRS) § 91-14, the issue of make whole remedies remains before the Board.

Complainants FERN KATHRYN WHEELLESS, DAYTON Y. YOSHIDA, MITSUO NAKAMOTO, ARDEN D. CONSTALES, EMOSI MANAIA SEVAO, LONNIE A. MERRITT, SAMUEL J. KAE0, ERNEST SUGUITAN, WALLACE K. KAHAPEA, DONNELL ADAMS, and STACY K. PAIO (collectively Complainants) have filed declarations requesting remedies under Decision No. 497, Order No. 4.

The Board has not made any determinations on these requested remedies. Further, the Board has not made any determinations on the three post-decision motions which are also pending before the Board.

The parties to the Agency Appeal filed a stipulation for dismissal with prejudice of all claims and parties with the circuit court. (Court Stipulation). The circuit court approved the Court Stipulation on March 2, 2022.

The filing of the Agency Appeal deprives the Board of jurisdiction over Decision No. 497, as modified by its two errata. Therefore, the effect of the circuit court’s approval of the dismissal, with prejudice, of the Agency Appeal is that Decision No. 497, as modified by its two errata, stands as the final decision and order in this case because it can no longer be appealed.

The parties have submitted a stipulation to the Board which states, in part, “There are no remaining claims or parties, all other claims and parties are dismissed with prejudice[.]” (Stipulation to Dismiss PPC).

Accordingly, the Board dismisses, with prejudice, all remaining issues and claims in this case, including the “make whole” remedies to be considered under Decision No. 497, Order No. 4 and all motions pending before the Board. This case is closed.

DATED: Honolulu, Hawai‘i, March 4, 2022.

HAWAI‘I LABOR RELATIONS BOARD

MARCUS R. OSHIRO, Chair

SESNITA A.D. MOEONO, Member

J N. MUSTO, Member

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