

LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

STATE OF HAWAII

DEWAYNE GONSALVES,	)	CASE NO.: AB 2022-052(M)
	)	DCD No.: 7-10-00890(O)
Claimant-Appellant,	)	
	)	
vs.	)	D/A: May 5, 2010
	)	
NUCOR CORPORATION,	)	
	)	
Employer-Appellee,	)	
	)	
and	)	Sep 13 2024, 8:10 am
	)	<b>FILED</b> <sub>akw</sub>
ARCH INSURANCE COMPANY,	)	Labor and Industrial Relations
	)	Appeals Board
Insurance Carrier-	)	
Appellee,	)	
	)	
and	)	
	)	
SEDGWICK CMS,	)	
	)	
Insurance Adjuster-	)	
Appellee.	)	

---

ORDER OF DISMISSAL

On April 27, 2022, Claimant DEWAYNE GONSALVES appealed the Director's April 13, 2022 Decision Supplemental to Award Dated 5/20/2013 to the Labor and Industrial Relations Appeals Board ("Board").

On July 18, 2022, the Board issued a Pretrial Order and set trial in this appeal for February 21, 2023 at 1:30 p.m., Hawaii Standard Time.

Trial proceeded on February 21, 2023 at 1:30 p.m. On February 24, 2023, the Board issued a Post-Trial Order which confirmed that the parties may file post-trial briefs on or before May 22, 2023.

Following the trial, Claimant's attorney, Charles Brower, Esq., and Employer SOUTH PACIFIC STEEL CORP.'s attorney, Jesse J. Maeda, Esq., submitted a Stipulation to Suspend or, Alternatively, Continue Post-Trial Brief Deadline ("stipulation"), dated May 12, 2023, for the Board's consideration. The stipulation stated that Claimant "died after the LIRAB trial but before the parties submitted their respective post-trial briefs[.]"

On May 18, 2023, the Board issued an Order Holding Case in Abeyance and Notice of Intention to Dismiss ("Order Holding Case in Abeyance"). This Order Holding Case in Abeyance ordered this appeal to be held in abeyance until September 13, 2023, pending the Board's receipt of a Death Certificate, obituary, or other reliable indicia of death that Claimant's death and date of death and the Board's receipt of a written appearance by a court-appointed personal representative or special administrator of Claimant's estate or a party with legal standing to participate in this case on Claimant's behalf, in the absence of a court-appointed legal representative. If the Board did not receive any of the above-referenced, written appearances on or before September 13, 2023, the Order Holding Case in Abeyance further ordered that Employer shall have until October 3, 2023 to submit a copy of Claimant's Death Certificate, obituary, or other reliable indicia of death to the Board and to confirm, in writing, whether or not a special administrator or personal representative of Claimant's estate was appointed on or before September 13, 2023 and:

1. If a special administrator or personal representative of Claimant's estate was not appointed on or before September

13, 2023, Employer shall file a declaration with the Board that confirms this, on or before October 3, 2023.

2. If a special administrator or personal representative of Claimant's estate has been appointed, Employer shall, on or before October 3, 2023:
  - a. Provide the special administrator or personal representative with written notice of the appeal herein, any and all Pretrial Orders pertaining to this appeal, and this Order Holding Case in Abeyance;
  - b. Give notice to the special administrator or personal representative that, on or before November 13, 2023, the special administrator or personal representative must enter an appearance in this appeal and indicate whether the estate plans to continue the appeal with a substitute party or the appeal will be dismissed; and
  - c. File a declaration with this Board that confirms compliance with this order and includes the identity and contact information of the special administrator or personal representative of Claimant's estate.

The Order Holding Case in Abeyance further advised the parties that this appeal may be dismissed after September 13, 2023, unless an appearance is made by either a court-appointed personal representative of Claimant's estate or a special administrator of Claimant's estate.

On June 29, 2023, Mr. Brower submitted a copy of a letter from the City and County of Honolulu, Department of the Medical Examiner which confirmed that Claimant died on April 28, 2023.

On July 5, 2023, Employer submitted copies of two obituaries stating that Claimant died on April 28, 2023.

On September 13, 2023, Mr. Brower requested an additional 60 days, or until Sunday, November 12, 2023, to follow-up with Claimant's mother

regarding the status of the appointment, if any, of a personal representative for Claimant's estate.

It has been almost 1 year and 5 months since Claimant died and over a year since the Board issued its Order Holding Case in Abeyance. To date, the Board has not received a written appearance by a court-appointed personal representative or special administrator of Claimant's estate or a party with legal standing to participate in this case on Claimant's behalf.

On September 11, 2024, Employer, through its attorney, Blaine W. Fujimoto, Esq., by way of a declaration, confirmed that as of September 10, 2024, no court-appointed legal representative, special administrator, or court-approved personal representative for Claimant's estate has been assigned. Mr. Fujimoto based his belief upon information obtained from Hawaii State eCourt Kokua.

To date, the Board has not received written notice from Mr. Brower that he is no longer representing Claimant. The Board, however, recognizes that, as a general rule, the authority of counsel to proceed with a case is terminated upon the death of the party being represented. *Bagalay v. Lahaina Restoration Foundation*, 60 Haw. 125 (1978).

There being no evidence to date that a court-appointed personal representative or special administrator of the Estate of Claimant has appeared in this appeal, and there being no request for an extension of the deadline to submit a written appearance by a court-appointed personal representative or special administrator of Claimant's estate beyond November 12, 2023,

IT IS HEREBY ORDERED that all proceedings before this Board in  
the above-entitled case be and hereby are dismissed.

Dated: Honolulu, Hawai'i,

Sep 13 2024



DAMIEN A. ELEFANTE, Chair



MARIE C.L. LADERTA, Member



HARRY YEE, Member

---

*Dewayne Gonsalves v. Nucor Corporation, et al.*; AB 2022-052(M); Order of  
Dismissal

Dewayne Gonsalves, Deceased  
For Claimant-Appellant

Charles H. Brower, Esq.  
Formerly, for Claimant-  
Appellant

Blaine W. Fujimoto, Esq.  
For Employer/Insurance  
Carrier/Insurance Adjuster-  
Appellee

A certified copy of the foregoing was served upon the above-captioned parties or their legal representatives on the date of filing noted above.

Order mailed: Sep 13 2024

LABOR APPEALS BOARD - 830 PUNCHBOWL ST, RM 404, HONOLULU, HI 96813 - (808)586-8600

If you need a language interpreter or if you need an auxiliary aid/service or other accommodation due to a disability, please contact the Board at (808) 586-8600 and/or [dlir.appealsboard@hawaii.gov](mailto:dlir.appealsboard@hawaii.gov) as soon as possible, preferably at least ten (10) business days prior to your hearing or conference date. Requests made as early as possible have a greater likelihood of being fulfilled. If a request is received after the reply date, the Board will try to obtain the interpreter, auxiliary aid/service, or accommodation, but the Board cannot guarantee that the request will be fulfilled.

Upon request, this notice is available in alternate/accessible formats such as large print, Braille, or electronic copy.

Equal Opportunity Employer/Program  
Auxiliary aids and services are available  
upon request to individuals with disabilities.  
TDD/TTY Dial 711 then ask for (808) 586-8600

---

*Dewayne Gonsalves v. Nucor Corporation, et al.; AB 2022-052(M); Order of Dismissal*

This certifies that the foregoing is a  
full, true, and correct copy of the  
original on file in this office.

/s/ *H. Watanabe* for LIRAB