

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 23106

IN THE SUPREME COURT OF THE STATE OF HAWAII

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GARY G. KARAGIANES, Appellant-Appellant

vs.

STATE OF HAWAII, Defendant-Appellee

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APPEAL FROM THE FIRST CIRCUIT COURT  
(CR. NOS. 97-2226N and 97-2236)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Appellant-appellant Gary G. Karagianes (Karagianes) appeals from the May 26, 1999 order of the circuit court of the first circuit, the Honorable Kevin S.C. Chang presiding, dismissing his appeal of the Hawai'i Paroling Authority's (HPA) "Notice and Order Fixing Minimum Term(s) of Imprisonment" for lack of jurisdiction. On appeal, Karagianes argues that the circuit court erred (1) in holding that it lacked jurisdiction to review the HPA's decision and (2) in dismissing his appeal without a hearing.

Upon carefully reviewing the record and the briefs submitted and having given due consideration to the issues raised and arguments advanced, we hold that minimum term hearings are not "contested cases" as defined by Hawai'i Revised Statutes (HRS) § 91-1(5), inasmuch as: (1) minimum term hearings are not adversarial proceedings; (2) there is no right to cross-examine witnesses; (3) no burden of producing evidence or burden of persuasion is placed upon any specific participant; (4) there is no right to submit rebuttal evidence; and (5) participants merely have the opportunity to present testimony and comments. See Turner v. Hawai'i Paroling Auth., 93 Hawai'i 298, 1 P.3d 768 (App.

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2000); Barnett v. State, 91 Hawai'i 20, 979 P.2d 1046 (1999); Hawai'i Administrative Rules (HAR) § 23-700-22. As such, HRS § 91-14 is not implicated in the present case. See HRS § 91-14. Therefore,

IT IS HEREBY ORDERED that the circuit court's May 26, 1999 order granting the HPA's motion to dismiss for lack of jurisdiction in lieu of certification and transmission of record, from which the appeal is taken, is affirmed.

DATED: Honolulu, Hawai'i, January 30, 2004.

On the briefs:

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