
NO. 24201

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

PETER K. TOYAMA, Appellant-Appellant,

vs.

EMPLOYMENT SECURITY APPEALS OFFICE,
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS (DLIR),
STATE OF HAWAI'I and MR. ERNEST HANAUMI, in his capacity as
Appeals Hearings Officer; MS. JOYCE PANG, in her capacity as
Chief Appeals Officer of the Employment Security Appeals
Office of the Department of Labor and Industrial Relations
(DLIR), State of Hawai'i; MS. ELAINE FUKUDA, in her capacity
as Secretary and Custodian of Records for the Chief Appeals
Officer, Employment Security Appeals Office, of the
Department of Labor and Industrial Relations (DLIR),
State of Hawai'i; MS. TINA LEE TAMAI, in her capacity as
Hearings Officer of Employment Security Appeals Office
of the Department of Labor and Industrial Relations (DLIR),
State of Hawai'i; MR. ARTHUR BARBA, in his capacity as
Senior Claims Examiner of the Unemployment Insurance
Division (Waipahu Office) of the Department of Labor and
Industrial Relations (DLIR), State of Hawai'i;
MR. WALTER YAMAMOTO, in his capacity as Senior Claims
Examiner of the Unemployment Insurance Division
(Waipahu Office) of the Department of Labor and Industrial
Relations (DLIR), State of Hawai'i; MS. GAIL UYEMATSU,
in her capacity as Claims Examiner of the Unemployment
Insurance Division (Waipahu Office) of the Department of
Labor and Industrial Relations (DLIR), State of Hawai'i;
MR. NELSON BEFITEL,¹ in his capacity as Director of the
Department of Labor and Industrial Relations (DLIR),
State of Hawai'i, Appellees-Appellees,

and

SAN JUAN CONSTRUCTION, INC., a Foreign corporation
registered to do business in Hawai'i and on Kwajalein Atoll
in the Marshall Islands and MR. FRANK HAWK, in his
capacity as President and Responsible Managing Employee
of San Juan Construction, Inc.; MR. WAYNE HAWK, in his

¹ At the time this case arose, Leonard Agor was the Director of the Department of Labor and Industrial Relations. Pursuant to Hawai'i Rules of Appellate Procedure, Rule 43(c) (2003) (entitled "Substitution of parties"), the current Director, Nelson Befitel, has been substituted for Leonard Agor.

capacity as Vice President of San Juan Construction, Inc.;
MR. CHRIS HAWK, in his capacity as Vice President of
San Juan Construction, Inc.; MR. CARL HAWK, in his capacity
as Secretary/Treasurer of San Juan Construction, Inc.;
MR. MICHAEL BRADLEY, in his capacity as Vice President of
San Juan Construction, Inc.; MR. TROY THOMPSON, in his
capacity as Project Manager for San Juan Construction, Inc.
for its project on Kwajalein Atoll, in the Marshall Islands;
MS. YVONNE TAYLOR, as its Secretary and Custodian of Records
for San Juan Construction, Inc.; MR. STEVEN RITCHART,
an individual and former employee of San Juan Construction
Inc., on Kwajalein Atoll Project in the Marshall Islands;
MR. MICHAEL AKUNA, an individual and former employee of
San Juan Construction, Inc., on their Kwajalein Atoll Project
in the Marshall Islands; MR. JOSEPH AKUNA, an individual and
former employee of San Juan Construction, Inc. on their
Kwajalein Atoll Project in the Marshall Islands;
MR. DEAN MARTINEZ, an individual, Appellees.

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 00-1-1322)

SUMMARY DISPOSITION ORDER

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

Appellant-appellant Peter K. Toyama appeals from the
March 20, 2001 final judgment of the first circuit court, the
Honorable Eden Elizabeth Hifo presiding, affirming the March 21,
2000 decision of the Employment Security Appeals Referees Office
(ESARO). Toyama argues that the circuit court erred in affirming
the decision of the ESARO and that the ESARO and the hearings
examiner improperly relied on evidence presented by Toyama's
employer, San Juan Construction, Inc., in ruling against Toyama.
On appeal, Toyama contends that "[t]he Unemployment Claims
Examiner and Referee's Office relied more of [sic] the
misleading information from employer rather than Appellant-
Appellant."

Upon carefully reviewing the record and the briefs submitted by the parties, and having given due consideration to the arguments advocated and the issues raised, we hold that the circuit court did not err when it concluded that Toyama's appeal of a decision that he was overpaid employment benefits as a result of fraud was not timely filed based upon the evidence in the record and the statutory requirements for appeal. See Hawai'i Revised Statutes (HRS) §§ 91-14(b) (1993), 383-38 (Supp. 2000), and 383-41 (1993); Hawai'i Rules of Appellate Procedure Rule 28(b)(7) (2003). Therefore,

IT IS HEREBY ORDERED that the circuit court's March 20, 2001 final judgment is affirmed.

DATED: Honolulu, Hawaii, July 21, 2004.

On the briefs:

Peter K. Toyama,
Appellant-Appellant
pro se

Staci I. Teruya, Deputy
Attorney General, for
Appellees-Appellees
Director and Department
of Labor and Industrial
Relations, State of Hawai'i

Michael L. Freed
for Appellee
San Juan Construction, Inc.
(no brief filed)