

NO. 24519

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

In the Matter of

HAWAI'I LABOR RELATIONS BOARD, State of
Hawai'i, Petitioner-Appellee,

and

LINDA LINGLE, Governor, State of Hawai'i, CHIYOME
LEINAALA FUKINO, M.D., Director, Department of
Health, State of Hawai'i, Respondents-Appellees,¹

and UNITED PUBLIC WORKERS, AFSCME, LOCAL 646,
AFL-CIO, Movant for Enforcement-Appellant.

APPEAL FROM THE FIRST CIRCUIT COURT
(S.P. NO. 01-1-0250)

SUMMARY DISPOSITION ORDER

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

Complainant-appellant United Public Workers, AFSCME, Local 646, AFL-CIO [hereinafter, UPW or Union] appeals from the August 22, 2001 final judgment of the Circuit Court of the First Circuit, the Honorable Sabrina S. McKenna presiding, granting the June 15, 2001 petition for enforcement by the Hawai'i Labor Relations Board [hereinafter, HLRB or Board]. UPW contends that the circuit court erred in granting the HLRB's petition to enforce because the relief requested was inconsistent with the remedial provisions of Decision No. 408. Specifically, UPW maintains that, by granting the relief requested, the circuit

¹ Pursuant to Hawai'i Rules of Appellate Procedure Rule 43(c) (2004), Governor Linda Lingle and Dr. Chiyome Fukino were substituted as parties to the instant appeal.

court: (1) arbitrarily limited the period of back pay relief to September 30, 1998; (2) precluded relief to PMAs Tan, Cabral, and Linda Kaaihue-Olivera; (3) limited Kawasaki's period of back pay relief to December 1, 1995; (4) awarded only "nominal" damages to Ipalari-Tan, Casino, Santos, Layugan, and Losbog; (5) failed to grant seniority; and (6) failed to compensate Santos, Layugan, Losbog, Casino, and Kaaihue-Olivera for the losses resulting from violations of the scheduling and hazard pay provisions of the unit 10 contract. UPW also contends that the circuit court erred in denying prejudgment interest in the judgment pursuant to HRS § 478-2 (1993).

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the issues raised and the arguments presented, we resolve the issues as follows: (1) UPW's opening brief fails to indicate "where in the record the alleged error[s] [were] objected to or the manner in which the alleged error[s] [were] brought to the attention of the court," as required by Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b)(4) (2000); (2) UPW's challenges to the HLRB's determinations regarding the period of back pay for affected PMAs and the status of Tan and Cabral constitute impermissible collateral attacks on the October 25, 2000 order of the HLRB, see First Hawaiian Bank v. Weeks, 70 Haw. 392, 398, 772 P.2d 1187, 1191 (1989); Matsuura v. E.I. du Pont de Nemours and Co., 102 Hawai'i 149, 158, 73 P.3d 687, 696 (2003); (3) with respect to Kaaihue-Olivera, Ipalari-Tan, Kawasaki, Casino, Santos, Layugan, and Losbog, UPW fails to indicate where

the circuit court was afforded an opportunity to address the contentions raised on appeal; nevertheless, the union fails to sustain its burden of demonstrating error in the record, see Hawai'i Revised Statutes 641-2 (1993); Ala Moana Boat Owners' Ass'n v. State, 50 Haw. 156, 159, 434 P.2d 516, 518 (1967); Van Poole v. Nippu Jiji Co., 34 Haw. 354, 360 (1937); Minatoya v. Mousel, 2 Haw. App. 1, 6, 625 P.2d 378, 382 (1981); and (4) UPW fails demonstrate that the circuit court abused its discretion in denying the HLRB's request for prejudgment interest. See Metcalf v. Voluntary Employees' Benefit Ass'n of Hawai'i, 99 Hawai'i 53, 61, 52 P.3d 823, 31 (2002); Molinar v. Schweitzer, 95 Hawai'i 331, 335, 22 P.3d 978, 982 (2001). Accordingly,

IT IS HEREBY ORDERED that the circuit court's August 22, 2001 final judgment granting the June 15, 2001 petition for enforcement by the HLRB is affirmed.

DATED: Honolulu, Hawai'i, November 18, 2004.

On the briefs:

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(of Takahashi, Masui &
Vasconcellos), for
movant for enforcement-
appellant

Valri Lei Kunimoto, for
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