

NOT FOR PUBLICATION

NO. 25906

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

RONALD YAMANAKA, WAYNE R. KRUSE, and UNITED PUBLIC WORKERS,  
AFSCME, LOCAL 646, AFL-CIO, Appellants-Appellants, v.  
HAWAII PUBLIC EMPLOYEES HEALTH FUND; HAWAII PUBLIC EMPLOYEES  
HEALTH FUND BOARD OF TRUSTEES, in Their Official Capacity,  
Appellees-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(Civ. No. 02-1-2981)

SUMMARY DISPOSITION ORDER

(By: Watanabe, Acting C.J., Lim and Nakamura, JJ.)

In this secondary appeal, two beneficiaries of the Hawaii Public Employees Health Fund (the Fund), Ronald Yamanaka and Wayne R. Kruse, along with their union, the United Public Workers, AFSCME, Local 646, AFL-CIO (collectively, Appellants), appeal the May 21, 2003 judgment that the Circuit Court of the First Circuit (circuit court)<sup>1</sup> entered in favor of the Fund and its Board of Trustees (the Board) (collectively, Appellees). The circuit court's judgment dismissed for lack of subject matter jurisdiction the December 20, 2002 agency appeal brought by Appellants under Hawaii Revised Statutes (HRS) § 91-14(a) (1993), and was predicated upon the circuit court's May 15, 2003 order granting Appellees' January 9, 2003 motion to dismiss.

Appellants took their agency appeal to the circuit court from the Board's November 21, 2002 decision to dismiss Appellants' August 30, 2002 administrative appeal without

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<sup>1</sup> The Honorable Sabrina S. McKenna presided.

ENTERED  
GENERAL APPELLATE COURTS  
STATE OF HAWAII

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conducting a contested case hearing.

In this appeal, Appellants also assail the circuit court's<sup>2</sup> March 10, 2003 decision to grant in part but deny in part their February 13, 2003 motion to compel production of the full record on appeal.

After a painstaking review of the record and the briefs submitted by the parties, and giving careful consideration to the arguments advanced and the issues raised by the parties, we conclude that Appellants lacked a constitutionally-protected property interest in the portion of the refunds from certain health insurance providers that the Fund received and paid to State and County employers, which portion or equivalent Appellants sought for themselves and others similarly situated in their administrative and agency appeals. HRS §§ 87-3(a)(1)(B) & -3(a)(2)(A) (Supp. 2002); Bush v. Hawaiian Homes Comm'n, 76 Hawai'i 128, 136, 870 P.2d 1272, 1280 (1994). Hence, Appellants were not entitled by due process principles to a contested case hearing before the Board, a jurisdictional prerequisite to an HRS ch. 91 agency appeal, HRS §§ 91-14(a), -1(5) & -1(6) (1993); Bush, 76 Hawai'i at 133-34, 870 P.2d at 1277-78, and the circuit court therefore lacked subject matter jurisdiction to adjudicate Appellants' agency appeal. HRS § 91-14(a); Bush, 76 Hawai'i at 137, 870 P.2d at 1281. This conclusion is fully dispositive of

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<sup>2</sup>

The Honorable Karen M. Radius presided.

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all of Appellants' points of error on appeal.

Therefore,

IT IS HEREBY ORDERED that the May 21, 2003 judgment of the circuit court is affirmed.

DATED: Honolulu, Hawai'i, November 28, 2005.

On the briefs:

Herbert R. Takahashi and  
Rebecca L. Covert  
for Appellants-Appellants.

Dorothy Sellers and  
Kimberly Tsumoto,  
Deputy Attorneys General,  
State of Hawai'i,  
for Appellees-Appellees.

*Corinne K.A. Watanabe*

Acting Chief Judge



Associate Judge

*Cris H. Nakamura*

Associate Judge