

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 26463

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

STEPHANIE C. STUCKY, Plaintiff-Appellant, v. PAUL R. BROWN
IN HIS OFFICIAL CAPACITY AS INTERIM DISTRICT
SUPERINTENDENT, DEPARMTENT OF EDUCATION, STATE OF
HAWAI'I; DEPARTMENT OF EDUCATION, STATE OF HAWAI'I;
ELIZABETH AYSON, INDIVIDUALLY AND IN HER OFFICIAL
CAPACITY AS PRINCIPAL, IAO INTERMEDIATE SCHOOL; NOEL
KURAYA IN HIS OFFICIAL CAPACITY AS AN EMPLOYEE OF THE
DEPARTMENT OF EDUCATION, STATE OF HAWAI'I, Defendants-
Appellees, JOHN DOES 1-10; JANE DOES 1-10; DOE
CORPORATIONS 1-10; DOE PARTNERSHIPS 1-10; DOE
GOVERNMENTAL AGENCIES 1-10; DOE BUSINESS ENTITIES 1-10;
Defendants

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(Civ. No. 99-0068(3))

ORDER DENYING MOTION FOR RECONSIDERATION

(By: Lim, Presiding Judge, Foley and Fujise, JJ.)

Plaintiff-Appellant Stephanie C. Stucky's (Stucky)

November 21, 2006 Motion for Reconsideration of Summary

Disposition Order Filed on November 13, 2006 points out that this
court did not explicitly rule on, and urges that the recent
decision in Burlington Northern & Santa Fe Ry. Co. v. White, 126
S. Ct. 2405 (2006) is relevant to, her retaliation claim.

As to the former, we take this opportunity to make
patent that this court's expression of approval of the trial
court's determination, that the personnel actions taken against
Stucky in this case were not motivated by the filing of her
complaints, was an adverse ruling on her retaliation claim.

As to the latter, Stucky's retaliation claim is no
longer based on any federal statute and Burlington Northern was
not a case construing Hawaii Revised Statutes Chapters 368 and

K. AMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2006 NOV 30 AM 8:00

FILED

378. Thus, it is inapposite to the present dispute. Assuming, arguendo, that Burlington Northern should nevertheless be taken as guidance in state law-based retaliation claims, it is of no moment as it does not illuminate the topic at issue here, whether Stucky's employer had non-retaliatory motives for the personnel actions taken.

Therefore,

IT IS HEREBY ORDERED that the motion for reconsideration is denied.

DATED: Honolulu, Hawai'i, November 30, 2006.

On the motion:

Mary Blaine Johnston,
for Plaintiff-Appellant.



Presiding Judge



Associate Judge



Associate Judge