

*** NOT FOR PUBLICATION ***

NO. 24895

IN THE SUPREME COURT OF THE STATE OF HAWAII

FRANCISCO ALVAREZ, Claimant-Appellee,

vs.

KYO YA COMPANY, LTD. AND FIRST INSURANCE
COMPANY OF HAWAII, LTD., Employer/Insurance
Carrier-Appellee,

and

EMERSON M. F. JOU, M.D., Appellant.

NORMA T. YARA
CLERK APPELLATE COURTS
STATE OF HAWAII

2005 MAR 30 AM 8:25

FILED

APPEAL FROM THE LABOR AND INDUSTRIAL RELATIONS
(CASE NO. AB 99-014)
(2-94-05744)

SUMMARY DISPOSITION ORDER

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

Appellant Emerson M.F. Jou, M.D. appeals from the January 15, 2002 decision and order of the Labor and Industrial Relations Appeals Board (LIRAB) determining that Jou's August 7, 1998 treatment plan was not reasonable or necessary. On appeal, Jou contends that the hearing before the Director of Labor and Industrial Relations violated his right to due process and equal protection, thereby resulting in an unconstitutional taking.

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 hold that:

(1) Jou has waived the claims advanced on appeal because they

were not properly presented in an appropriate manner, see Hawai'i Revised Statutes § 641-2 (1993); (2) assuming arguendo that Jou properly presented the arguments raised on appeal before the LIRAB, he fails to present a sufficient record to positively show the alleged error, see State v. Hoang, 93 Hawai'i 333, 334, 3 P.3d 499, 500 (2000); Bettencourt v. Bettencourt, 80 Hawai'i 225, 230, 909 P.2d 553, 558 (1995); and (3) Jou's statement of points of error fails to indicate where in the record the alleged error (a) occurred and (b) was objected to or the manner in which the alleged error was brought to the attention of the agency, in violation of Hawai'i Rules of Appellate Procedure Rule 28(b) (4) (2000). Accordingly,

IT IS HEREBY ORDERED that the January 15, 2002 decision and order of the LIRAB is affirmed.

DATED: Honolulu, Hawai'i, March 30, 2005.

On the briefs:

Stephen M. Shaw,
for appellant

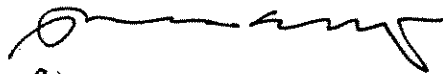
Paul A. Brooke, for
employer/insurance
carrier-appellee

On the record:

Francisco Alvarez,
claimant-appellee,
appearing pro se



Stephen M. Shaw



Francisco Alvarez