

NO. 23539

IN THE SUPREME COURT OF THE STATE OF HAWAII

LEWIS W. POE, Petitioner-Appellant

vs.

HAWAII LABOR RELATIONS BOARD, State of Hawaii,
Appellee-Appellee

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 99-3426)

SUMMARY DISPOSITION ORDER

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

Petitioner-appellant Lewis W. Poe appeals from the first circuit court's May 12, 2000 order and May 24, 2000 judgment affirming the Hawaii Labor Relations Board's (Board) order, filed on August 12, 1999. On appeal, Poe alleges that the trial court erred in affirming the Board's order because (1) the Board's finding of fact regarding the nature of his petition was clearly erroneous, (2) the Board's delay in disposing of his petition violated Hawaii Administrative Rules (HAR) § 12-42-9(g), and (3) the Board's application of HAR § 12-42-9(f) in refusing to issue a declaratory order was incorrect.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issue raised by the parties, we hold that because (1) the Board's finding of fact regarding the

nature of his petition was not clearly erroneous, (2) the Board's delay in disposing of his petition was not prejudicial to Poe, and (3) the Board's application of HAR § 12-42-9(f) in refusing to issue a declaratory order was correct, the circuit court properly affirmed the Board's Order No. 1746, which dismissed Poe's petition for declaratory ruling.

IT IS HEREBY ORDERED that the order and judgment of the circuit court from which the appeal is taken is affirmed.

DATED: Honolulu, Hawai'i, February 28, 2001.

On the briefs:

Lewis W. Poe,
Petitioner-Appellant,
pro se

Valri Lei Kunimoto,
for Appellee-Appellee,
Hawai'i Labor Relations
Board