

**Electronically Filed
Intermediate Court of Appeals
CAAP-19-0000493
12-FEB-2024
07:52 AM
Dkt. 74 SO**

NO. CAAP-19-0000493

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

KAREN J. HO, Appellant-Appellant,
v.
DEPARTMENT OF HEALTH, STATE OF HAWAI'I; MERIT APPEALS BOARD,
STATE OF HAWAI'I; DWIGHT TAKENO; LAURIE SANTIAGO; and VALERIE
PACHECO (MAB CASE NO. 362), Appellees-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CASE NO. 1CC181001148)

SUMMARY DISPOSITION ORDER

(By: Leonard, Acting Chief Judge, and McCullen, J.;
and Circuit Judge Tonaki, in place of Hiraoka, Wadsworth,
Nakasone, and Guidry, JJ., all recused)

Appellant-Appellant Karen J. Ho (**Ho**) appeals from the June 19, 2019 Judgment (**Judgment**) entered by the Circuit Court of the First Circuit (**Circuit Court**)¹ in favor of Appellees-Appellees Department of Health, State of Hawai'i (**DOH**) Merit Appeals Board, State of Hawai'i, Dwight Takeno, Laurie Santiago, and Valerie Pacheco (MAB Case No. 362). Ho also challenges the June 19, 2019 Order Affirming Merit Appeals Board [**MAB**] Order

¹ The Honorable James H. Ashford presided.

Dismissing Appeal Dated 06/26/18 (**Order Affirming Dismissal**). Ho seeks relief from the MAB's determination that she has no standing to challenge DOH's April 30, 2004 classification action for the DOH Comprehensive Health Planning Coordinator (**Planning Coordinator**) position (**Reclassification**).

Ho raises fifteen points of error on appeal, contending that: (1) "the Circuit Court erred in determining, without findings, that the MAB was correct in determining that [Ho] did not have standing and/or that MAB was without jurisdiction to review [Ho's] administrative appeal"; (2) the Circuit Court erred in the Judgment because Ho "properly challenged" the Reclassification; (3) Ho properly submitted her December 21, 2016 HRD 259 form, Request for Administrative Review of Classification Action (**Request**), regarding the [Reclassification] for position no. 24342; (4) the Request was wrongfully rejected by DOH based on the date it was filed without "evaluating any notice of final action"; (5) Ho properly appealed to the MAB on January 25, 2017; (6) Ho properly objected to the Reclassification; (7) Ho properly raised issues as to the Reclassification that were unanswered by the MAB; (8) Ho properly objected to DOH's December 30, 2016 rejection of her Request; (9) the MAB wrongly concluded that Ho had no standing because she was not occupying the position of Planning Coordinator when the 2004 HRD-1 was signed; (10) the MAB failed to grant her relief by "finding that she was disqualified from raising the challenge"; (11) Ho timely appealed to the Circuit Court and properly challenged the MAB's finding that she

had no standing to challenge her rejected Request; (12) the MAB erred in finding that DOH committed no legal wrong in light of Sussel v. Civil Serv. Comm'n of City and Cnty. of Honolulu, 74 Haw. 599, 851 P.2d 311 (1993); (13) in her Reply Brief to the Circuit Court, Ho reiterated her objections to the MAB's determination that notice of the Reclassification occurred and that she acknowledged that notice occurred; (14) Ho's position should be reclassified as Comprehensive Health Planning Officer and awarded retroactive pay and retirement benefits; and (15) the Circuit Court erred in affirming MAB's finding that Ho "does not have standing to challenge" the Reclassification.

Upon careful review of the record and the briefs submitted by the parties, and having given due consideration to the arguments advanced and the issues raised by the parties, we resolve Ho's points of error as follows:

Ho was appointed to the Planning Coordinator position on April 6, 2005. The classification action she was requesting to be administratively reviewed was taken on April 30, 2004, almost a year before she took the position. We conclude that MAB did not err in finding and concluding that Ho did not have standing to appeal the April 30, 2004 classification action to the MAB because Ho was not in the Planning Coordinator position as of the effective date of the classification action.

Accordingly, the Circuit Court's June 19, 2019 Judgment is affirmed.

DATED: Honolulu, Hawai'i, February 12, 2024.

On the briefs:

Richard L. Holcomb,
(Holcomb Law, LLC),
for Appellant-Appellant.

James E. Halvorson,
Deputy Attorney General,
for Appellee-Appellee,
Department of Health,
State of Hawai'i.

/s/ Katherine G. Leonard
Acting Chief Judge

/s/ Sonja M.P. McCullen
Associate Judge

/s/ John M. Tonaki
Circuit Judge