

SUPREME COURT OF HAWAII

Paul's Electrical Service, Inc. v. Befitel

104 Hawai'i 412, 91 P.3d 494 (2004) · No. No. 23800 · Decided July 14, 2004

SUMMARY

The Supreme Court of Hawai'i held that the Department of Labor and Industrial Relations issued a notification of violation against Paul's Electrical Service, Inc. after an unreasonable two-year delay. Because the notification was invalid, the court vacated the circuit court's judgment affirming a three-year suspension from government construction contracts and remanded for entry of judgment in favor of Paul's Electrical. The opinion also clarified the standards for reviewing administrative agency decisions and discretionary determinations.

CASE DETAILS

COURT	Supreme Court of Hawai'i
WRITING FOR THE COURT	Duffy, J.; Moon, C.J.; Levinson, J.; Nakayama, J.; Acoba, J.
JURISDICTION	Hawaii
DECIDED	July 14, 2004
DOCKET	No. 23800
DISPOSITION	vacated
PROCEDURAL POSTURE	Paul's Electrical appealed from the first circuit court's judgment affirming the Department of Labor and Industrial Relations' decision to suspend it from new government construction contracts for three years.
STANDARD OF REVIEW	On a secondary appeal, the Supreme Court determines whether the circuit court was right or wrong while applying HRS § 91-14(g) to the agency decision. Agency conclusions of law are reviewed de novo, factual findings are reviewed for clear error, and discretionary determinations receive deferential abuse-of-discretion review only when the legislature delegated discretion over the matter. The circuit court's conclusions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published opinion; precedential Supreme Court of Hawai'i decision.
PARTIES	Paul's Electrical Service, Inc. v. Nelson Befitel, Director of the Department of Labor and Industrial Relations

TOPICS

judicial review of agency action

administrative law

government contracts

construction law

statutory interpretation

PRACTICE AREAS

administrative law

government contracts

construction law

appellate procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether HRS § 104-23 requires DLIR to issue a notification of violation within a reasonable time even though the statute specifies no deadline.
2. Whether DLIR's more-than-two-year delay in issuing the third notification of violation was reasonable because proceedings on the alleged second violation were still pending.
3. Whether DLIR's interpretation of the procedural requirements of HRS § 104-23 was entitled to deference.

HOLDINGS

1. When HRS § 104-23 does not specify a deadline for issuing a notification of violation, DLIR must issue the notification within a reasonable time.
2. DLIR's more-than-two-year delay in issuing the third notification of violation was unreasonable, rendering the notification invalid.
3. DLIR's interpretation of HRS § 104-23 was not entitled to deference because the legislature did not delegate discretion to DLIR to interpret the statute's procedural requirements.

KEY QUOTATIONS

“In summary, when reviewing a determination of an administrative agency, we first decide whether the legislature granted the agency discretion to make the determination being reviewed. If the legislature has granted the agency discretion over a particular matter, then we review the agency's action pursuant to the deferential abuse of discretion standard (bearing in mind the legislature determines the boundaries of that discretion). If the legislature has not granted the agency discretion over a particular matter, then the agency's conclusions are subject to de novo review.” (104 Hawai'i at 502; 91 P.3d at 502)

“Because DLIR did not issue the third NOV within a reasonable time, the third NOV was invalid.” (104 Hawai'i at 503; 91 P.3d at 503)

FACTUAL BACKGROUND

Paul's Electrical received a first notification of violation for underpaying public-works employees and later faced proceedings concerning a second violation. During the second-violation proceedings, DLIR investigated additional wage underpayments and, in March 1997, requested that Paul's Electrical pay \$304.23 in back wages; the company immediately paid. DLIR did not issue a notification of violation for that conduct until April 7,

1999, after the Appeals Board had ruled on the second violation, and treated it as a third violation warranting a three-year suspension from government contract work.

PROCEDURAL HISTORY

DLIR issued a third notification of violation more than two years after completing the investigation that uncovered the violation. The Labor and Industrial Relations Appeals Board affirmed the third violation and three-year suspension. The first circuit court affirmed, concluding that DLIR's delay was reasonable and that reversal required proof of prejudice. The Supreme Court of Hawai'i vacated the circuit court's judgment and remanded for entry of judgment in favor of Paul's Electrical.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the first circuit court's final judgment and remand with instructions to enter judgment in favor of Paul's Electrical.

CASES CITED

- Korean Buddhist Dae Won Sa Temple of Hawaii v. Sullivan, 87 Hawai'i 217, 953 P.2d 1315 (1998)
- Bragg v. State Farm Mutual Auto. Ins., 81 Hawai'i 302, 916 P.2d 1203 (1996)
- In re Hawaiian Elec. Co., 81 Hawai'i 459, 918 P.2d 561 (1996)
- Outdoor Circle v. Harold K.L. Castle Trust Estate, 4 Haw. App. 633, 675 P.2d 784 (1983)
- In re Wai'ola O Moloka'i, Inc., 103 Hawai'i 401, 83 P.3d 664 (2004)
- Morgan v. Planning Department, County of Kauai, 104 Hawai'i 173, 86 P.3d 982 (2004)
- TIG Insurance Co. v. Kauhane, 101 Hawai'i 311, 67 P.3d 810 (App. 2003)
- In re Gray Line Hawai'i Ltd., 93 Hawai'i 45, 995 P.2d 776 (2000)
- Hyatt Corp. v. Honolulu Liquor Commission, 69 Haw. 238, 738 P.2d 1205 (1987)
- Allstate Insurance Co. v. Schmidt, 104 Hawai'i 261, 88 P.3d 196 (2004)
- In re Hawaii Electric Light Co., Inc., 60 Haw. 625, 594 P.2d 612 (1979)
- Booker v. Midpac Lumber Co., 65 Haw. 166, 649 P.2d 376 (1982)
- State v. Sacoco, 45 Haw. 288, 367 P.2d 11 (1961)
- Camara v. Aagsalud, 67 Haw. 212, 685 P.2d 794 (1984)
- Troyer v. Adams, 102 Hawai'i 399, 77 P.3d 83 (2003)
- State v. Sherman, 70 Haw. 334, 770 P.2d 789 (1989)
- Mauian Hotel, Inc. v. Maui Pineapple Co., 52 Haw. 563, 481 P.2d 310 (1971)
- Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944)
- In re Kauai Electric Division of Citizens Utilities Co., 60 Haw. 166, 590 P.2d 524 (1978)
- Nakamura v. State, 98 Hawai'i 263, 47 P.3d 730 (2002)

- Southern Foods Group, L.P. v. State, Department of Education, 89 Hawai'i 443, 974 P.2d 1033 (1999)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/hawaii-supreme-court-of-hawai-i/2004/paul-s-electrical-service-inc-v-befitel-bh3gjxtu>