

NO. 23811

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

GREGORY BARNETT, Plaintiff-Appellant, v. ERIC PENAROSA, in his official capacity as Warden, Halawa Correctional Facility; DEPARTMENT OF PUBLIC SAFETY, STATE OF HAWAII, Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(Civ. No. 97-1548)

MEMORANDUM OPINION

(By: Burns, C.J., Watanabe, and Foley, JJ.)

A.

This appeal stems from a lawsuit filed in the Circuit Court of the First Circuit (the circuit court) by Plaintiff-Appellant Gregory Barnett (Barnett) against Defendants-Appellees Eric Penarosa (Penarosa), in his official capacity as Warden of the Halawa Correctional Facility (HCF), and the Department of Public Safety, State of Hawaii (DPS) (collectively, Defendants). Barnett, who was then a prison inmate housed at the HCF High Security Facility, sought: (1) a declaratory judgment invalidating the "Halawa Medium Security Facility Inmate Guidelines" (HMSF Guidelines), which Barnett had been disciplined for violating, on grounds that they were not adopted pursuant to the rule-making procedures set forth in the

Hawaii Administrative Procedure Act (HAPA) and codified in Hawaii Revised Statutes (HRS) chapter 91; (2) an order enjoining Defendants or their assigns from enforcing the HMSF Guidelines; and (3) an order expunging from Barnett's file all records of misconduct stemming from the HMSF Guidelines.

Penarosa subsequently removed this case to the United States District Court for the District of Hawai'i, which, on September 9, 1997, entered an order dismissing all of Barnett's federal law claims against Defendants and remanding all of Barnett's "state law claims" to the circuit court.

On remand, the circuit court resolved Barnett's state law claims by entering an order, dated October 29, 1998, that granted Defendants' counter motion for summary judgment and dismissed Barnett's state law claims against Defendants with prejudice (Summary Judgment Order). The Summary Judgment Order stated, in relevant part, as follows:

The [c]ourt . . . hereby finds [sic] that, viewing the evidence and inferences in the light most favorable to [Barnett], there are no disputed issues of material fact and that Defendants are entitled to judgment on the claims presented in the complaint as a matter of law based on the following.

The court finds [sic] that it lacks jurisdiction over the subject matter of [Barnett's] complaint because the [DPS's] prison rules and regulations in the [HMSF Guidelines] are not subject to chapter 91, [HRS], and the [HAPA]. The public safety prison rules which are the subject of [Barnett's] complaint are not "rules" within the meaning of section 91-1(4), [HRS], because they deal with the internal management of prison facilities and do not affect private rights or procedures available to the public.

See Tai v. Chang, 58 Haw. 386, 570 P.2d 563 (1977), and Holdman v. Olim, 59 Haw. 346, 518 P.2d 1164 (1978).

THEREFORE, IT IS HEREBY ORDERED that, based on the foregoing, [Defendants'] Countermotion for Summary Judgment filed December 31, 1997 is hereby GRANTED and the claims in the complaint against Defendants are DISMISSED WITH PREJUDICE.

(Emphasis added.) On November 19, 1998, Barnett filed a motion for reconsideration of the Summary Judgment Order, which the circuit court denied on June 26, 2000. Thereafter, on September 28, 2000, the circuit court entered a Judgment in a Civil Case (Judgment), which ordered, in pertinent part, as follows:

Pursuant to Rule 58 of the Hawai'i Rules of Civil Procedure and Rule 23 of the Rules of the Circuit Courts of the State of Hawai'i, IT IS ORDERED AND ADJUDGED that Judgment is entered in favor of Defendants [Penarosa], [DPS] and against [Barnett] on all claims in this case. There are no remaining claims in this case.

IT IS FURTHER ORDERED that the above-entitled action is hereby DISMISSED With Prejudice.

B.

On appeal, Barnett challenges the legal grounds upon which the circuit court based its Summary Judgment Order and Judgment.

Based on our review of the record and the relevant statutes and case law, we agree with Barnett that the circuit court wrongly concluded that it lacked subject matter jurisdiction to decide his claims. Pursuant to HRS §§ 91-7

(1993)¹ and HRS § 632-1 (1993),² the circuit court clearly had

^{1/} Hawai'i Revised Statutes (HRS) § 91-7 (1993) provides:

Declaratory judgment on validity of rules. (a) Any interested person may obtain a judicial declaration as to the validity of an agency rule as provided in subsection (b) herein by bringing an action against the agency in the circuit court of the county in which petitioner resides or has its principal place of business. The action may be maintained whether or not petitioner has first requested the agency to pass upon the validity of the rule in question.

(b) The court shall declare the rule invalid if it finds that it violates constitutional or statutory provisions, or exceeds the statutory authority of the agency, or was adopted without compliance with statutory rule-making procedures.

^{2/} HRS § 632-1 (1993) provides as follows:

Jurisdiction; controversies subject to. In cases of actual controversy, courts of record, within the scope of their respective jurisdictions, shall have power to make binding adjudications of right, whether or not consequential relief is, or at the time could be, claimed, and no action or proceeding shall be open to objection on the ground that a judgment or order merely declaratory of right is prayed for; provided that declaratory relief may not be obtained in any district court, or in any controversy with respect to taxes, or in any case where a divorce or annulment of marriage is sought. Controversies involving the interpretation of deeds, wills, other instruments of writing, statutes, municipal ordinances, and other governmental regulations, may be so determined, and this enumeration does not exclude other instances of actual antagonistic assertion and denial of right.

Relief by declaratory judgment may be granted in civil cases where an actual controversy exists between contending parties, or where the court is satisfied that antagonistic claims are present between the parties involved which indicate imminent and inevitable litigation, or where in any such case the court is satisfied that a party asserts a legal relation, status, right, or privilege in which the party has a concrete interest and that there is a challenge or denial of the asserted relation, status, right, or privilege by an adversary party who also has or asserts a concrete interest therein, and the court is satisfied also

(continued...)

jurisdiction to decide the validity of the HMSF Guidelines and the applicability of the HAPA rule-making requirements to the HMSF Guidelines. Accordingly, those parts of the Summary Judgment Order and Judgment which dismissed Barnett's claims with prejudice on jurisdictional grounds were wrong and are hereby vacated.

We also conclude, in light of the Hawai'i Supreme Court's decisions in Holdman v. Olim, 59 Haw. 346, 581 P.2d 1164 (1978), and Tai v. Chang, 58 Haw. 386, 570 P.2d 563 (1977), that the circuit court was right when it held that the HMSF Guidelines were not "rules," as defined in HRS § 91-1(4) (1993),³ and were,

^{2/}(...continued)

that a declaratory judgment will serve to terminate the uncertainty or controversy giving rise to the proceeding. Where, however, a statute provides a special form of remedy for a specific type of case, that statutory remedy shall be followed; but the mere fact that an actual or threatened controversy is susceptible of relief through a general common law remedy, a remedy equitable in nature, or an extraordinary legal remedy, whether such remedy is recognized or regulated by statute or not, shall not debar a party from the privilege of obtaining a declaratory judgment in any case where the other essentials to such relief are present.

^{3/} HRS § 91-1(4) (1993) defines the term "rule" as

each agency statement of general or particular applicability and future effect that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency. The term does not include regulations concerning only the internal management of an agency and not affecting private rights of or procedures available to the public, nor does the term include declaratory rulings issued pursuant to section 91-8, nor intra-agency memoranda.

therefore, not required to be promulgated pursuant to the rule-making procedures set forth in the HAPA, HRS chapter 91. Accordingly, we affirm that part of the Summary Judgment Order which granted summary judgment in Defendants' favor and that part of the Judgment which "ORDERED AND ADJUDGED that Judgment is entered in favor of [Defendants]".

DATED: Honolulu, Hawai'i, September 20, 2002.

On the briefs:

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