*** NOT FOR PUBLICATION ***

NO. 24166

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

ARTHUR L. AARONA, Claimant-Appellant,

vs.

GTE HAWAIIAN TELEPHONE COMPANY, INC.,
Employer-Appellee, Self-Insured,

and

TRAVELERS INSURANCE COMPANY, Insurance Adjuster-Appellee.

APPEAL FROM THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD
(CASE NO. AB 99-587 (2-95-05865))

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

Claimant-appellant Arthur Aarona (Aarona) appeals from the February 20, 2001 decision and order of the Department of Labor and Industrial Relations (DLIR) Appeals Board (LIRAB), reversing the decision of the Director of the Disability Compensation Division of the DLIR (Director) and concluding that (1) Aarona's shoulder dislocation on February 5, 1999 was not a compensable consequence of his April 7, 1995 work-related injury, and, therefore, not the liability of GTE Hawaiian Telephone Company, Inc. [hereinafter, "GTE Hawaiian Tel."], and (2) GTE Hawaiian Tel. was not liable for the treatment Aarona received at Kapiolani Medical Center at Pali Momi on February 5, 1999. On appeal, Aarona argues that (1) GTE Hawaiian Tel. was collaterally estopped from challenging compensability for, and precluded from

relitigating the nature and scope of, the April 7, 1995 work-related injury, (2) the February 5, 1999 injury was a "recurrence" of the April 7, 1995 work-related injury, and, therefore, compensable, (3) GTE Hawaiian Tel. did not present substantial evidence to overcome the presumption that the February 5, 1999 injury was work-related, and (4) GTE Hawaiian Tel. should not be allowed to "reopen" the issue of compensability.[1]

Upon carefully reviewing the record and the briefs submitted and having given due consideration to the issues raised and arguments advanced, we initially note that the stipulation and settlement agreement did not preclude GTE Hawaiian Tel. from challenging Aarona's claimed compensability for the February 5,

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[1] Aarona challenges the following findings of fact and conclusions of law:

FINDINGS OF FACT

> 18. [Aarona] has not presented any medical evidence that his left shoulder dislocation on February 5, 1999, was causally related to the work injury on April 7, 1995.
>
> . . . .

CONCLUSIONS OF LAW

> 1. We conclude that the dislocation of [Aarona's] left shoulder on February 5, 1999, was not a compensable consequence of the April 7, 1995 work injury and is, accordingly, not the liability of [GTE Hawaiian Tel.] We based our conclusion on the opinions of Dr. Davenport, Dr. Lichter, and Dr. Bagby that [Aarona's] work injury was a temporary aggravation, and that the dislocation on February 5, 1999 was a recurrence of a pre-existing recurrent left shoulder dislocation. [GTE Hawaiian Tel.] has presented substantial evidence for us to make this conclusion.

1999 injury. Contrary to Aarona's contention, GTE Hawaiian Tel. was not attempting to challenge its liability for or relitigate the nature and scope of the April 7, 1995 work-related injury. Instead, when Aarona reopened his case for the April 7, 1995 work-related injury for further benefits for the February 5, 1999 injury, GTE Hawaiian Tel. challenged Aarona's claimed compensability -- the critical issue of which was whether the February 5, 1999 injury was a compensable consequence of the April 7, 1995 work-related injury. The stipulation and settlement agreement does not preclude GTE Hawaiian Tel. from challenging as much.

With respect to Aarona's remaining points of error on appeal, we hold that: (1) the LIRAB did not err in concluding that the February 5, 1999 injury was not a compensable consequence of the April 7, 1995 work-related injury, inasmuch as the record provided ample evidence to establish that the February 5, 1999 injury was not a "direct and natural result" of the April 7, 1995 work-related injury, and, therefore, not a compensable consequence for purposes of workers' compensation, see Davenport v. City and County of Honolulu, 100 Hawai'i 297, 59 P.3d 932 (App. 2001); Korsak v. Hawaii Permanente Med. Group, 94 Hawai'i 297, 12 P.3d 1238 (2000); Tate v. GTE Hawaiian Tel. Co., 77 Hawai'i 100, 881 P.2d 1246 (1994); and (2) GTE Hawaiian Tel.

produced substantial evidence expressly, directly, and specifically rebutting the statutory presumption that Aarona's February 5, 1999 injury was a compensable consequence of his April 7, 1995 work-related injury, see HRS § 386-85(1); Nakamura v. State, 98 Hawai'i 263, 47 P.3d 730 (2002); Akamine v. Hawaiian Packing & Crating Co., 53 Haw. 406, 495 P.2d 1164 (1972). Therefore,

IT IS HEREBY ORDERED that the LIRAB's February 20, 2001 decision and order, from which the appeal is taken, is affirmed.

DATED: Honolulu, Hawai'i, August 31, 2005.

On the briefs:

Herbert R. Takahashi, Stanford H. Masui, Danny J. Vasconcellos and Rebecca L. Covert, for claimant-appellant Arthur L. Aarona

Stanford M. J. Manuia, for employer-appellee, self-insured and insurance adjuster-appellee GTE Hawaiian Telephone Co., Inc. and Travelers Insurance Co.