SCOT-22-0000502

IN THE SUPREME COURT OF THE STATE OF HAWAIʻI

---

LAULANI TEALE, individual, Appellant,

vs.

BOARD OF LAND AND NATURAL RESOURCES, State of Hawaiʻi, and the UNIVERSITY OF HAWAIʻI, State of Hawaiʻi, Appellees.

---

APPEAL FROM THE BOARD OF LAND AND NATURAL RESOURCES

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Recktenwald, C.J., Nakayama, McKenna, Wilson, and Eddins, JJ.)

Upon review of Appellant's appeal from Appellee Board of Land and Natural Resources' (BLNR's) approval of the "Mauna Kea Comprehensive Management Plan 2022 Supplement" (2022 Supplement) under "Item K-2 of its agenda" at the July 22, 2022 "hearing," and (2) the "implicit denial" of Appellant's request for a contested case hearing, and the record, it appears this court lacks appellate jurisdiction over the appeal.

Based on this record, what occurred before the BLNR on July 22, 2022, in relation to the 2022 Supplement, did not result from a contested case or the denial of a contested case request because the discussion on July 22, 2022, did not prevent Appellant from filing a petition for a contested case hearing. Appellant filed a petition and that petition remains pending in

the BLNR. What occurred on July 22, 2022, was thus not a proceeding that determined Appellant's legal rights, duties, or privileges. See Hawai‘i Revised Statutes (HRS) § 91-1 (Supp. 2021) (defining a "contested case" as "a proceeding in which the legal rights, duties, or privileges of specific parties are required by law to be determined after an opportunity for agency hearing"). Because what occurred on July 22, 2022, in relation to the 2022 Supplement was not a contested case, or a denial of a request for a contested case, this court does not have jurisdiction over this direct appeal under HRS §§ 183C-9 (Supp. 2021) and 91-14(a) (2012 & Supp. 2021).[1]

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai‘i, February 15, 2023.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Michael D. Wilson

/s/ Todd W. Eddins

[1] HRS § 91-7 (2012 & Supp. 2021) does not authorize a direct appeal to this court, or for a declaratory judgment action to originate in this court. See Lingle v. Hawaii Gov't Employees Ass'n, AFSCME, Local 152, AFL-CIO, 107 Hawai‘i 178, 184, 111 P.3d 587, 593 (2005) ("The right to appeal is purely statutory and exists only when jurisdiction is given by some constitutional or statutory provision.").