

Electronically Filed
Supreme Court
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SCEC-20-0000525

IN THE SUPREME COURT OF THE STATE OF HAWAII

MILILANI B. TRASK; KU KAHAKALAU; ELDON-NALEI PATE-KAHAKALAU;
ROBERT CAZIMERO; PATRICK S.K. SMITH aka KAMEALOA SMITH;
RYNETTE K. KEEN aka KAIPO KEEN; HERBERT ISHIBASHI aka PUA
ISHIBASHI; DAVID TRASK, III; JACKIE BURKE; CHARLES M. HEAUKULANI;
VERDA V. JENKINS aka OLA JENKINS; LEONA LEIALOHA; DAVID
HEAUKULANI; BRADFORD LEIALOHA; BARBARA ARTHURS; ANA NAWAHINE
KAHOOPII; BARBRA CUTTANCE; RALPH C. BOYEA; ALBERT K. KAHOOPII,
JR.; GRETA CORREA; IVALANI APO; ROWENA AKANA;
JUDITH E. LYON; ROBERTA CABRAL; KEALII MAKEKAU; JAMIE CLARK;
BARTON MCCOLLOUGH, SR.; LAURA DESOTO-MCCULLOUGH; RB MCCOLLOUGH;
GLORIA ISHIBASHI; KANOENANI CASTRO; MITCHELL CASTRO; ALOHI MESA;
KAUAI ISHIBASHI; KIANA KEALIIHOLOKAHIKI BOURNE; LESLIE-JAMES
KAIMIAINA BOURNE; CELII-RAINE UA; SARAI UA; ABRIEN ALVAREZ;
ANUHEA TORRES-LEIALOHA; NANE TORRES-LEIALOHA; ALLISON ABADILLA;
KRISTYELLEN M. KOBASHIGAWA; RONALD DESOTO, SR.; MAILE DESOTO;
MANUEL DESOTO; TRACI BROWN; LEONA SERAO; KATHERINE HA'I-KELLY;
STEPHEN S. NORRIS; LUCEAN NICOLAS; BRUCE D. WITZENBURGER; SHANNON
MATSON; JOHN PETER MATSON; and BRUCE DESOTO, SR., Plaintiffs,

vs.

BENJAMIN K. LINDSEY and
SCOTT T. NAGO, in his capacity as Chief Election Officer,
State of Hawai'i, Defendants.

ORIGINAL PROCEEDING

ORDER DISMISSING COMPLAINT

(By: Recktenwald, C.J., Nakayama, McKenna and Wilson, JJ.,
and Circuit Judge Kawamura, assigned by reason by vacancy)

Upon consideration of Plaintiffs' "Complaint" filed on

August 24, 2020; Defendant Chief Election Officer Scott T. Nago's motion to dismiss filed on August 28, 2020; Defendant Benjamin K. Lindsey's answer, filed on August 31, 2020, the respective supporting documents, and the record, it appears that: (1) Plaintiffs are challenging the residency of Defendant Lindsey and his eligibility to run for the position of Trustee, Office of Hawaiian Affairs (OHA) from the island of Hawai'i, and asking this court to find that Defendant Benjamin K. Lindsey does not satisfy the requirements to be a candidate for the Hawai'i Island OHA seat; (2) a challenge to a candidate's residency is governed by HRS § 11-13, which provides in relevant part "[i]n case of question, final determination of residence shall be made by the clerk, subject to appeal to the board of registration under part III of this chapter"; and (3) this court therefore lacks jurisdiction to consider this election contest complaint. Accordingly,

IT IS HEREBY ORDERED that the motion to dismiss is granted, and the complaint is dismissed for lack of jurisdiction.

DATED: Honolulu, Hawai'i, September 3, 2020.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Michael D. Wilson

/s/ Shirley M. Kawamura

