SCEC-24-0000761

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I
_____

KARL ORLANDO DICKS and EMIL SVRCINA, Plaintiffs,

vs.

STATE OF HAWAI‘I OFFICE OF ELECTIONS and SCOTT NAGO, Defendants.
_____

ORIGINAL PROCEEDING

<u>ORDER DISMISSING ELECTION COMPLAINT</u>
<u>AND DENYING PETITION FOR WRIT OF MANDAMUS</u>
(By: Recktenwald, C.J., McKenna, Eddins, Ginoza, and Devens, JJ.)

On November 8, 2024, an Election Complaint (Complaint) was filed by Plaintiffs Karl Orlando Dicks and Emil Svrcina (collectively, Plaintiffs), which we construe as a general election contest and petition for writ of mandamus. As a general election contest, we find and conclude that Plaintiffs’ Complaint does not challenge the election results of any race in the 2024 general election.

A general election complaint, at minimum, must plead that the conduct in question by an election official could cause a

difference in the election results of a race in the 2024 general election. See Hawaiʻi Revised Statutes (HRS) § 11-172 (Supp. 2021). Plaintiffs' Complaint does not state a claim under HRS § 11-172. The Complaint instead seeks a declaration that early voting, mail-in voting, and Act 136 of the 2019 Hawaiʻi Session Laws are unconstitutional or illegal.

Moreover, a petition for writ of mandamus is not intended to be used in lieu of normal court procedures, including normal appellate procedures, that could be (and could have been) used to address Plaintiffs' questions of law concerning an Act that has been effective since 2019 and related election procedures. See Womble Bond Dickinson (US) LLP v. Kim, 153 Hawaiʻi 307, 319, 537 P.3d 1154, 1166 (2023); see also HRS § 632-1 (2016).

It is ordered that the general election complaint is dismissed for failure to state a claim and the petition for writ of mandamus is denied.

DATED: Honolulu, Hawaiʻi, December 2, 2024.

/s/ Mark E. Recktenwald

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

/s/ Lisa M. Ginoza

/s/ Vladimir P. Devens