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SCEC-26-0000600

IN THE SUPREME COURT OF THE STATE OF HAWAII

TRAVIS A. LIGGETT,
Plaintiff,

vs.

MOANA M. LUTEY, in her official capacity as
County Clerk of the County of Maui;
RICHARD T. BISSEN, JR.; and YUKI LEI KASHIWA SUGIMURA,
Defendants.

ORIGINAL PROCEEDING

ORDER DISMISSING COMPLAINT

(By: Devens, C.J., McKenna, Eddins, and Ginoza, JJ.,
and Intermediate Court of Appeals Judge Gluck,
assigned by reason of vacancy)

On August 24, 2026, Plaintiff Travis A. Liggett (Liggett) filed a complaint contesting the August 8, 2026 first special election for Mayor of the County of Maui. Liggett was an unsuccessful mayoral candidate, placing sixth in the first special election. See Charter of the County of Maui § 7-2(3) (stating that, where there are three or more candidates for Mayor, the names of the two candidates receiving the highest number of votes in the first special election shall be placed on the ballot for the second special election).

Liggett's complaint alleges that errors or irregularities occurred in connection with government publications and communications that "could have" caused, or were "legally capable" of causing, a difference in the election results because these errors or irregularities resulted in a materially inaccurate account of Liggett's public policy record. Liggett asserts that, as a result, voter comparisons among the mayoral candidates were adversely affected.

At the same time, Liggett acknowledges that the over 11,000 vote difference between Liggett and the second-place candidate is "substantial." Liggett nonetheless requests that this court: (1) based on the evidence presented by Liggett, determine that an error, irregularity, or other cause "could have" caused or was "legally capable" of causing a difference in the election results; and (2), based on that decision of error, decide which candidates were lawfully nominated. Liggett claims that an accurate account of Liggett's public policy record "could have caused a significant number of voters to rank or select the candidates differently."

Hawai'i Revised Statutes (HRS) Section 11-172 (Supp. 2021) states that an election complaint "shall set forth any cause or causes, such as but not limited to, provable fraud, overages, or underages, that could cause a difference in the election results." See Dicks v. Office of Elections, 155 Hawai'i 102,

106, 557 P.3d 831, 835 (2024) (“To state a claim under HRS § 11-172, the election contest complaint, at the bare minimum, must plead that the conduct in question by the election official could cause a difference in the election results.”).

HRS Section 11-172’s requirements for an election complaint are viewed in context with the relief allowed in a primary election contest, which is that this court’s judgment “shall decide what candidate was nominated or elected, as the case may be, in the manner presented by the petition[.]” HRS § 11-173.5(b) (2009). Thus, the causes alleged in Liggett’s complaint should result in a change in which candidates were nominated to proceed to the 2026 second special election for Mayor. See HRS §§ 11-172, 11-173.5(b). Liggett’s complaint fails to meet this standard.

“An election contest cannot be based upon mere belief or indefinite information.” Akaka v. Yoshina, 84 Hawai‘i 383, 387-88, 935 P.2d 98, 102-03 (1997). For example, it is insufficient for a complaint to merely point to a “poorly run and inadequately supervised election process” that suggests “room for abuse” or “possibilities of fraud” that could cause a difference in election results. Id. at 388, 935 P.2d at 103.

Similar to the insufficient basis identified in Akaka, Liggett’s complaint asks this court to engage in speculation as to whether the alleged errors or irregularities associated with

the government publications and communications “could have” caused, or were “legally capable” of causing, a difference in the election results notwithstanding the “substantial” vote difference between Liggett and the second-place candidate. For example, other than speculation, Liggett does not provide any evidence showing that, had the alleged errors or irregularities been corrected prior to the election, Liggett would have received enough additional votes to be the second-place candidate. See HRS § 11-173.5(b); Akaka, 84 Hawai‘i at 388, 935 P.2d at 103 (observing that a plaintiff has the burden of demonstrating that the specific acts and conduct complained of would have had the effect of changing the results).

Liggett’s complaint fails to state a claim upon which relief may be granted in a primary election contest. Accordingly, the complaint is dismissed.

It is also ordered that the motion filed August 24, 2026, is denied as moot.

DATED: Honolulu, Hawai‘i, August 31, 2026.

/s/ Vladimir P. Devens

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

/s/ Lisa M. Ginoza

/s/ Daniel M. Gluck

