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SCEC-26-0000598

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

KRISTEN K. SOUZA, also known as KANANI SOUZA,
Plaintiff,

vs.

SCOTT T. NAGO, in his official capacity as Chief Elections
Officer, Office of Elections, State of Hawai‘i; STATE OF HAWAI‘I
OFFICE OF ELECTIONS; CHADD KADOTA, in his official capacity as
Acting City Clerk, City and County of Honolulu;

REX QUIDILLA, in his official capacity as the Elections
Administrator, City and County of Honolulu; and SHEILA MEDEIROS,
Defendants.

ORIGINAL PROCEEDING

ORDER DENYING MOTION FOR RECONSIDERATION

(By: Ginoza, J., and Intermediate Court of Appeals
Associate Judge McCullen, in place of Devens, C.J., recused,
and Intermediate Court of Appeals Associate Judge Guidry,
assigned by reason of vacancy,
with Eddins, J., dissenting separately,
with whom McKenna, Acting C.J., joins)

Upon consideration of Plaintiff Kristen K. (Kanani)

Souza’s (**Souza**) September 11, 2026 “Motion For Reconsideration

Of Ballot Language 'Republican Party Voters Only,'" it appears that:

In our "Findings of Fact, Conclusions of Law, and Judgment" (**Findings/Conclusions/Judgment**) filed on September 4, 2026, we resolved Souza's election contest by determining that the State Representative District 43 Republican candidates Souza and Defendant Sheila Medeiros (**Medeiros**) are entitled to a new election. We ordered, inter alia, that a new election between Souza and Medeiros shall be held concurrently with the 2026 general election and that the ballot for the new election shall plainly identify for that race: "Republican Party Voters Only." After careful consideration of the unique circumstances in this case, and pursuant to Hawai'i Revised Statutes (**HRS**) § 11-175 (2009),¹ we determined that this would be the most appropriate remedy.

At the evidentiary hearing in this case, Chief Elections Officer Scott Nago (**Nago**) testified that, whether the new election is held at the same time as the general election or as a separate primary, ballots for the new contest would be sent to all registered voters in District 43. Either way, there is no way to screen voters or enforce that only voters who would

¹ Pursuant to HRS § 11-175, this court is authorized to "do whatsoever else may be necessary fully to determine the proceedings, and enforce its decrees therein."

have cast ballots in the Republican primary are the ones voting in the new election. Voters are not registered by party.

The separate opinion, which was amended on September 11, 2026, and which now concurs in part and dissents in part with the Findings/Conclusions/Judgment, proposes that a separate State Representative District 43 primary election should be held after the general election. But, holding a separate election after the general election would not solve the problem here. Nago testified that holding the new contest as a separate election, after the general election, would not be any better at screening out those who would not have voted in the Republican primary. Again, all registered voters in District 43 would receive a ballot in a new special primary, just like holding the new contest at the same time as the general election.

In the August 8, 2026 primary election between Souza and Medeiros, only voters who voted in the Republican contests could vote in the State Representative District 43 race. We know the total number of voters who cast valid ballots in that race, but there is no way to remove from the count two invalid ballots that resulted in an overage. If a separate District 43 primary is held after the general election, as proposed by the separate opinion, all registered District 43 voters could cast a ballot, regardless of party or non-party affiliation because there is no way to restrict ballots to only those who could have

voted in the original Republican primary election. In this regard, such a new primary would have the same challenges as our order to hold the new contest at the same time as the general election. The only differences are that the results of a post-general election contest would be determined even later, and the printing and mailing of separate new ballots would be required. We respectfully disagree with the separate opinion's new position.

There is no way to perfectly replicate the August 8, 2026 primary election; it is simply not possible to do so at this point in time.

As to the instant motion, Souza moves this court to reconsider our instruction to the Office of Elections and label the new District 43 election contest "Republican Primary Election," instead of "Republican Party Voters Only." However, rather than conflict with article II, section 4 of the Hawai'i Constitution, our Judgment expressly recognized that provision and stated that "no voter shall be required to declare a party preference as a condition of voting in District 43." In the interest of seeking to best replicate the District 43 race between Souza and Medeiros for voters who would have likely voted in the August 8, 2026 primary, but also mindful of article II, section 4 of the Hawai'i Constitution, which prevents us from requiring a voter to declare a party affiliation, we reaffirm

our instruction that the Office of Elections label the District 43 race "Republican Party Voters Only." Souza's requested change in the label for the new election does not materially affect who will vote in the new election. Further, as all parties were aware from the evidentiary hearing held on September 2, 2026, the ballots for the general election were scheduled to be printed last Friday, September 11, 2026, the same day that Souza filed her motion for reconsideration.

Accordingly, Souza has not presented a point of law or fact that this court misapprehended or overlooked. Souza's motion for reconsideration is denied.

DATED: Honolulu, Hawai'i, September 16, 2026.

/s/ Lisa M. Ginoza

/s/ Sonja M.P. McCullen

/s/ Kimberly T. Guidry

