

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

EMIL SVRCINA, KARL O. DICKS, BANNER FANENE

PETITIONER(S)

VS.

SCOTT NAGO, CHIEF ELECTION OFFICER et al.

STATE OF HAWAII OFFICE OF ELECTIONS

GLEN TAKAHASHI, in his official capacity as C&C RESPONDENT(S)

Honolulu city clerk

CLARE E. CONNORS, Attorney General State of

Hawaii et al.

PETITION FOR A WRIT OF CERTIORARI

Complaint SCEC-20-0000721 filed Hawaii Supreme Court

Supreme Court State of Hawai'i
Chief Justice Mark E. Recktenwald

Petition for Writ of Certiorari

Emil Svrčina
94-570 Poloahilani st.
Millilani, HI. 96789
ph.(808)256-6473

emil_svrncina@hotmail.com
pro se

Karl Orlando Dicks
1025 Uluwale st.
Wahiawa, HI. 96786
ph. (808)478-8682

karld@hawaiiintel.net
suri juris

Banner Fanene
329 California Ave.
#407
Wahiawa, HI. 96786
ph. (808)622-7780

banner4senate@gmail.com
pro se

January 5, 2021

Klean House Hawaii

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PARTIES TO PROCEEDINGS

- I. An Original Complaint SCEC-20-0000721, State of Hawaii Supreme Court, In connection with multiple violations of U.S. Constitution, federal and state statutes, federal and state guidelines, rules, procedures for federal, state, and local elections. Filed November 23, 2020, in compliance with Title 2 ELECTIONS. HRS§11-172, §11-173.3, §11-174, §11-175.

Note: All parties do not appear in caption of case on the cover page. This is a list of parties who were a party to Complaint SCEC-20-0000721.

Petitioner(s):

Emil Svrcina, Candidate for State of Hawaii Representative District 37.

Karl O. Dicks, Candidate for Mayor C&C Honolulu Hawaii.

Banner Fanene, Candidate for State of Hawaii Senator District 22.

Klean House Hawaii (a group of 30 or more registered voters State of Hawaii). Each individual of 58 registered voters signed individual affidavits, which were part of original filing, State of Hawaii Supreme Court.

Respondent(s):

Scott T. Nago, in his capacity as Chief Elections Officer for State of Hawaii, State of Hawaii Office of Elections, and Glen Takahashi, in his capacity as City Clerk of City and County of Honolulu Hawaii.

Note: Clare Connors AG State of Hawaii is added to this caption of case.

QUESTIONS PRESENTED

Article II of the Constitution provides that “Each State shall appoint [electors for President and Vice President] in such Manner as the Legislature thereof may direct.” U.S. Const. art. II, § 1, cl. 2 (emphasis added). That power is “plenary,” and the statutory provisions enacted by the legislature in the furtherance of that constitutionally-assigned duty may not be ignored by state election officials or changed by state courts. *Bush v. Gore* (“*Bush II*”), 531 U.S. 98, 104-05 (2000). Under both the Fifth and Fourteenth Amendments to the U.S. Constitution, neither the federal government nor state governments may deprive any person “of life, liberty, or property without Due process of law”

These questions are therefore presented:

Question 1.

Did the Hawaii Supreme Court violate rights and due process under the First and Fourteenth Amendment of the U.S. Constitution by dismissing with prejudice Complaint SCEC-20-0000721, on the basis of laches?

(a) Is this a foreclosure for any opportunity for Petitioners to seek retrospective and prospective relief and enforcement for ongoing constitutional and all other statute violations in elections?

Question 2.

Was Petitioners Due Process violated when a motion for reconsideration, which was timely, filed 12/17/20, 9 days after motion to dismiss, was denied?

Complaint SCEC-20-0000721 had already been marked “CLOSED”,

and an “S” which signifies judgment has been satisfied prior to 12/17/20. Hawaii Rules of Civil procedures, Rule 40 allows 10 days to file motion for reconsideration after order for dismissal is issued.

(a) Did State of Hawaii Attorney General violate Due Process by granting permission to Chief Election Officer to certify results of Hawaii 2020 election 12/9/20 immediately upon Hawaii Supreme Court issued order for dismissal?

HRS§11-156 If there is an election contest these certificates shall be delivered only after a final determination in the contest has been made and the time for an appeal has expired. [L 1970, c 26, pt of §2; am L 1986, c 305, §4; am L 2012, c 34, §1; am L 2014, c 139, §1]

Question 3

Did the State of Hawaii legislature violate the Federal Constitution, U.S. Code Title 52 Voting and Elections, and the 2010 Plain Writing Act (Public Law 111-274) by enacting legislation passed in 2019 as Act 136, “Vote By Mail”?

Act 136 is the “new” guide to conduct all State of Hawaii and all federal elections pursuant to Article I, and Article II of the U.S Constitution. Hawaii’s Act 136, “Vote by Mail” in its final version of has 75 of the 96 pages that are entirely incoherent, and crossed out or lined out.

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner(s) respectfully prays that a writ of certiorari be issued to review the judgment below.

OPINIONS BELOW

The opinion of the highest state court to review the merits appears as .pdf at <http://jimspss1.courts.state.hi.us:8080/eCourt/ECC/ECCDisclaimer.iframe;jsessionid=2775BA0398E310C0D2B20158D7457FEE>

APPENDIX A. SCEC-20-0000721, Original Election Complaint (attached)

APPENDIX B. Motion to Dismiss (attached)

APPENDIX C. Motion to Dismiss Granted (attached)

APPENDIX D. Motion for Reconsideration (attached)

APPENDIX E. Motion Denied (attached)

JURISDICTION

From State of Hawaii Supreme Court:

A copy of highest state court decided 12/8/ 2020 decision appears at a copy of order to grant motion to dismiss. APPENDIX C. (attached)

A copy of highest state court decided 12/22/ 2020 decision appears at a copy of order to motion for reconsideration denied. APPENDIX E. (attached)

The jurisdiction of this Court is invoked under 28 U.S.C. §1257 (a).

FEDERAL CONSTITUTIONAL PROVISIONS INVOLVED

First Amendment, Fourth Amendment, Fifth Amendment
Fourteenth Amendment, Equal Protection

FEDERAL STATUTES

U.S.C. Title 52, VOTING and ELECTIONS, Help America Vote Act
Amdt14.S1.4.3.3.3.1.2 Partisan Gerrymandering
Amdt14.S1.4.3.3.3.1.1 Dilution of the Right to Vote
Public Law 111 – 274 – Plain Writing Act of 2010
Title 18, U.S.C., SECTION 242 The Color of Law

STATE CONSTITUTION, STATE LAWS, STATUES

Articles 1§5, Due Process, Article 2 Suffrage and Elections,
Article 16 (4), Oath of office,
Article 13, Plain language, Title 2 Elections

CHAPTER 11

HRS§11-17, Removal of names from register, (Chief Election Officer Admission
Video, Hawaii Public Radio, Scott Nago approximately 100000 names ineligible)
§11-155, §11-156, Election certification

CHAPTER 12

HRS§12-21, Official party ballots. HRS§12-41(b) (non partisan discrimination)

CHAPTER 16 [NEW] VOTING SYSTEMS

HRS§16-1(1), It shall secure to the voter secrecy in the act of voting;
HRS§16-1(2), (non partisan)
HRS§16-12(2), HRS§16-12(4), HRS§16-41, HRS§16-43, HRS§16-45, HRS§16-46
(no security, chain of custody, no paper trail, no observers etc.)

CHAPTER 19 ELECTION FRAUDS

HRS§19-1 Election Frauds, HRS§19-3(8), HRS§19-4, HRS§19-6

HAWAII APPELLATE RULES, Rule 40; motion for reconsideration

STATEMENT OF THE CASE

The Hawaii Supreme Court has jurisdiction over all election matters under HRS§11-172, 11-173.5, 11-174.5, 11-175. Said statutory provisions provide, in pertinent part, that *inter aila*, a contest to results to the instant general election shall be filed for cause with this Supreme Court of the State of Hawai'i not later than the twentieth day following the general election being contested. Complaint filed in accordance with this and in a timely manner.

Complaint avers that the general election, conducted on November 3, 2020, and primary election August 8, 2020 in their entirety in the State of Hawai'i were contested by this same complaint process. The basis and foundation of complaint is that multiple violations of Constitutional Provisions, Federal guidelines, procedures and standards. Petitioners did aver that multiple violations of Hawaii Title 2 Elections and HRS Statues, and Title 3 Hawaii Administrative Rules and other various guidelines did also occur. Petitioners therefore aver that the results of Final Report, are not certifiable as required HRS§ 11-155 as true, credible, and correct election results. Petitioners aver certification audits and actions could not be properly performed with verifiable information had been adjudicated and was compromised in light of multiple violations, and a absence of integrity in the election process.

Petitioners, do hereby aver and submit that the Supreme Court Hawaii did not issue a summons to the Respondents named in SCEC-20-0000721 an election

complaint, and were not summoned to appear before the Supreme Court not later than 4:30 p.m. on the tenth day after service thereof. HRS§11-174.5(a)(b).

To date there has been no adjudication in any manner of the multiple, verifiable violations by Scott Nago, Chief Election Officer, nor Glen Takahashi, City Clerk or the Office of Elections, nor by the Hawaii Supreme Court.

Now comes the Hawaii Supreme Court and Attorney General Hawaii have added additional election violations. The Supreme Court has violated all Due process by dismissing and closing, and marking the case, SCEC-20-0000721 an election complaint, as “judgment satisfied”. Case was marked “CLOSEDS” before time (10 days) for Rule 40, motion for reconsideration, or any other appeal process periods had expired.

Any one individual violation or any combination of violations or the accumulation of many violations could easily be cause or causes, such as but not limited to, provable fraud, overages, or underages, that could cause a difference in the election results. The complaint did set forth reasons for reversing, correcting, or changing the decisions of the precinct officials or the election officials

The State of Hawai'i, Office of Elections, Scott Nago (Chief Election Officer, et al.) and the Honolulu County City Clerk (Glen Takahashi et al.), Clare Connors (Hawaii State Attorney General), and Mark Recktenwald (Chief Justices of Hawaii Supreme Court) have separately (and/or jointly) knowingly, or unknowingly violated multiple Constitutional provisions, Federal guidelines, procedures and standards.

Petitioners also aver that ethical standards for the 2020 State of Hawaii Elections have been grossly diminished.

RELIEF AND REMEDY:

Petitioners aver, and pray that due to the magnitude of violations, and lack of action by Hawaii Supreme Court that this course of remedy may be implemented

That this Honorable United States Supreme Court issue writ of certiorari and review merits of this case.

If deemed proper to issue a writ of mandamus to the Hawaii Supreme Court and thereby to issue an order for Special election be ordered within 120 days of order as provided by HRS§ 11-174.5.

A) That a Special election should be the entirety of the State of Hawaii 2020 election, as a whole. It should include all candidates who properly registered for their names to appear on the ballot, using the primary election list. Any possible disenfranchised candidates would therefore be automatically included.

B) Hawaii Supreme Court to issue a writ of mandamus to Chief Election officer State of Hawaii to fully implement and follow current HRS statues, and rules, and guidelines as set out by and as per Title 2 Elections as in Hawaii Revised Statues, without use of Act 136 “all mail in ballot”, which violates both federal and state plain language statutes.

C) That the Hawaii Supreme Court shall issue writ of mandamus to the State of Hawaii Attorney General to faithfully fulfill their duties and responsibilities, specifically item 2.

ROLES AND RESPONSIBILITIES:

(Attorney General Hawaii)

Personally or through deputy attorneys general, the Attorney General

1. Appears for the State in civil and criminal cases when the State is a party.
2. Investigate violations of state laws, and initiates civil and criminal actions to enforce the laws or prosecute persons who violate them.
3. Prepare legal opinions for the Governor, the Legislature, and the heads of state departments.
4. Advises state officials on legal matters so that they may faithfully execute their duties and responsibilities.
5. Defends and represents state officials and employees when they are sued for actions they have taken or are about to take in connection with their state positions.

REASON FOR GRANTING A WRIT OF CERTIORARI

The Petitioners request for writ of certiorari and is not entered into nor shall not be viewed lightly. This Writ is requested with full knowledge of the rarity of the few exceptions of its award in history. Petitioners stand, and will bear a burden of lack malice for the violations. Petitioners seek to carry forth and actively embrace the still yet evolving rights of the people and specifically the protection of the people's right to vote.

The 2020 Hawaii election cycle has been a wakeup call for Petitioners as citizens first and candidates second. It is the prayers of the Petitioners for a writ of certiorari to be granted to honor and preserve the foundation and integrity of and to ensure and maintain the time honored and tested Constitutional provisions in unity with all locally legislatively accepted and adjudicated federal, state and local as applicable guidelines for elections and voting rights shall be upheld equally and in their entirety for all people of all the states.

Petitioners are not focused on the number of votes nor who wins or loses. Interest is focused on the preservation of the integrity of elections. Voting integrity is the foundation for the voices of people to be heard and gave birth of our great country. The United States has advanced the right to vote more than any nation in history. The legislation or making of laws rules and guidelines of individual states collectively have advanced voting rights for many under guardianship and guidance of the Honorable Supreme Court of the United States. There have been many landmark speeches, and famous court battles fought in the history of the United

States. Petitioners recognize it is a privilege, to have the highest jurisdiction in the United States to consider an alleged grievance seeking adjudication of election violations. Petitioners are in lack of a desire to burden the honorable arbiters of this request with a history of landmark speeches and court battles. The State of Hawaii, 2020 elections has advanced a new level of perceived election violations and has been noted by Petitioners multiple complaints and grievances which are of record of Hawaii Supreme Courts. Petitioners pray indulgence of the honorable Supreme Court of the United States to grant and issue a writ of certiorari for complaint SCEC -20-0000721 which was timely filed in the Hawaii Supreme Court November 23, 2020 in accordance with HRS§11-172.

Petitioners pray that laws shall prevail.

CONCLUSION

Petitioners pray for writ of certiorari should be granted.

Respectively submitted,

Emil Svrčina

94-570 Polohilani St.

Millilani, HI. 96789

01/05/2021 Emil Svrčina 
Date Print Sign

Karl Orlando Dicks

1025 Uluwale St.

Wahiawa, HI. 96786

1/5/21 KARL ORLANDO DICKS 
Date Print Sign

Banner Fanene

329 California Ave. #407

Wahiawa, HI. 96786

1/5/21 Banner Fanene 
Date Print Sign