

NO. 23908

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STEVE TATAII, Petitioner

vs.

DWAYNE D. YOSHINA; OFFICE OF ELECTIONS, STATE OF HAWAI'I,
Respondents

ORIGINAL PROCEEDING

ORDER

By: Moon, C.J., Levinson, Nakayama,
Ramil, and Acoba, JJ.)

Upon consideration of: (1) Petitioner Steve Tataii's General Election 2000 Contest challenging the election of Barbara Marumoto as representative of State House District 17 pursuant to HRS § 11-174 and Petitioner's motion to expedite the proceeding; (2) the motion to dismiss or for summary judgment filed by Respondents Dwayne Yoshina, the Office of Elections, and State of Hawaii; and (3) the papers in support and opposition, it appears that: (1) HRS § 11-172 governs election contests for cause and provides that "[w]ith respect to any election, any candidate, or qualified political party directly interested, or any thirty voters of any election district, may file a complaint in the supreme court and the 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";

(2) Petitioner's complaint challenging the State House District 17 election does not meet the standard set forth in HRS § 11-172; (3) because Representative Marumoto was unopposed in the September 23, 2000 primary election, she was deemed elected after the primary election pursuant to article III, section 4 of the Hawai'i Constitution; there was no general election for State Representative from House District 17, and no general election to challenge pursuant to HRS § 11-174.5; (4) the time for challenging the results of the State House District 17 election expired on September 29, 2000, see HRS § 11-173.5 (a complaint challenging the results of a primary election "shall be filed . . . no later than 4:30 p.m. on the sixth day after a primary election"). Therefore,

IT IS HEREBY ORDERED that the Respondent's motion to dismiss is granted, and Petitioner's General Election Contest 2000 is dismissed.

IT IS FURTHER ORDERED that the motion for expedition of time for court orders is denied.

DATED: Honolulu, Hawai'i, December 20, 2000.