NO. 25372

IN THE SUPREME COURT OF THE STATE OF HAWAIʻI

BENJAMIN J. CAYETANO, GOVERNOR, STATE OF HAWAIʻI,
Petitioner,

vs.

DWAYNE D. YOSHINA, CHIEF ELECTION OFFICER,
STATE OF HAWAIʻI, Respondent.

ORIGINAL PROCEEDING
(Petition for a Writ Directed to a Public Official)

ORDER DENYING PETITION
(By: Moon, C.J., Nakayama, and Ramil, JJ.; and
Intermediate Court of Appeals Chief Judge Burns,
in place of Levinson, J., Absent
and Acoba, J., Dissenting)

We have reviewed the petition submitted by Petitioner, Governor Benjamin J. Cayetano, against Respondent, Chief Election Officer Dwayne D. Yoshina. "A writ of mandamus and/or prohibition will not issue unless a petitioner demonstrates a clear and indisputable right to relief and a lack of other means to redress adequately the alleged wrong or obtain the requested action. Mandamus relief is available to compel an official to perform a duty allegedly owed to an individual only if the individual's claim is clear and certain, the official's duty is ministerial and so plainly prescribed as to be free from doubt, and no other remedy is available." Barnett v. Broderick, 84 Hawaiʻi 109,111, 929 P.2d 1359, 1361 (1996) (Citations omitted).

The Petitioner asks that we construe the last sentence of HRS § 17-2:

> . . . such that if in fact it confers discretion upon the Chief Election Officer to alter any of the State's elections laws to facilitate a special election . . . the Chief Election Officer can exercise that discretion to consider the practicability of holding the special election in conjunction with the State's November 5, 2002 general election rather than on November 30th, sixty days after the election proclamation was issued.

The Petitioner argues, in part:

> The literal language of the last sentence of [HRS] § 17-2 suggests that provisions of that section as well as any other section of the State's election laws need not be implemented if the Chief Election Officer determines that it would be impracticable to rely upon them to conduct a special election to fill a vacancy in the House of Representatives.

We have frequently noted when applying statutes:

> When construing a statute, the starting point is the language of the statute itself. Courts are bound to give effect to all parts of a statute, and that no clause, sentence, or word shall be construed as superfluous, void, or insignificant if a construction can be legitimately found which will give force to and preserve all words of the statute. Words are given their common meaning unless some wording in the statute requires a different interpretation. Moreover, although the intention of the legislature is to be obtained primarily from the language of the statute itself, we have rejected an approach to statutory construction which limits us to the words of a statute, for when aid to construction of the meaning of words, as used in the statute, is available, there certainly can be no rule of law which forbids its use, however clear the words may appear on superficial examination. Thus, the plain language rule of statutory construction does not preclude an examination of sources other

> than the language of the statute itself even when the language appears clear upon perfunctory review. Were this not the case, a court may be unable to adequately discern the underlying policy which the legislature seeks to promulgate and, thus, would be unable to determine if a literal construction would produce an absurd or unjust result, inconsistent with the policies of the statute.
>
> Finally, a rational, sensible and practicable interpretation of a statute is preferred to one which is unreasonable or impracticable, because the legislature is presumed not to intend an absurd result, and legislation will be construed to avoid, if possible, inconsistency, contradiction, and illogicality.

Keliipuleole v. Wilson, 85 Hawai‘i 217, 221-222, 941 P.2d 300, 304-305 (1997) (citations, quotation marks, ellipses, brackets omitted).

The Petitioner concedes the history of HRS § 17-2 "is silent both as to whether the 60 day interval is mandatory and whether the interval can be shortened if the Chief Election Officer determines that adhering to it . . . would be impracticable." Thus, we look to the language of the provision and "give effect to all parts of [it, so], that no clause, sentence, or word shall be construed as superfluous, void, or insignificant if a construction can be legitimately found which will give force to and preserve all words of the statute." Keliipuleole, supra. The Petitioner's construction would void HRS § 17-2's clear mandate that the "proclamation shall be issued not later than on the sixtieth day prior to the election[.]" That language and the "so far as practicable" language of the last sentence of HRS § 17-2 can both be "give[n] effect" if the Chief Information Officer is deemed to have discretion to schedule the election more, but not less, than 60

days after issuance of the proclamation. The Petition fails to show a clear and indisputable right to relief. Therefore,

IT IS HEREBY ORDERED, pursuant to Rule 21(c) of the Hawai‘i Rules of Appellate Procedure, that the petition is denied.

DATED: Honolulu, Hawai‘i, October 7, 2002.