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NO. 29371

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

MARY JEAN CASTILLO-BARKLEY, Plaintiff,

vs.

KEVIN B. CRONIN, CHIEF ELECTION OFFICER
FOR THE STATE OF HAWAI'I, Defendant.

ORIGINAL PROCEEDING

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT
(By: Moon, C.J., Levinson, Nakayama, and Acoba, JJ.
and Intermediate Court of Appeals Judge Foley,)
in place of Duffy, J., unavailable)

We have considered Plaintiff Mary Jean Castillo-Barkley's Election Complaint and Defendant Kevin B. Cronin's motion to dismiss or for summary judgment. Having heard this matter without oral argument and in accordance with HRS § 11-173.5(b) (Supp. 2007) (requiring the supreme court to "give judgment fully stating all findings of fact and of law"), we set forth the following findings of fact and conclusions of law and enter the following judgment.

FINDINGS OF FACT

1. Hanalei Y. Aipoalani was one of two Democratic party candidates for the office of state representative, District 44, in the September 20, 2008 primary election.

2. The primary election results for the Democratic candidates for the office of state representative, District 44, were: (1) Karen Awana: 1,072 votes; (2) Hanalei Aipoalani: 1,012 votes; (3) blank votes: 233; and (4) over votes: 1.

3. The above election results were challenged by a complaint filed on September 26, 2008 by plaintiff Mary Jean Castillo-Barkley.

4. Plaintiff Castillo-Barkley filed her complaint "[a]s a concerned voting resident of Hawaii and treasurer for the 'Friends of Hanalei Aipoalani.'"

5. Defendant Cronin filed a motion to dismiss the complaint for plaintiff Castillo-Barkley's lack of requisite standing.

CONCLUSIONS OF LAW

1. "With 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." HRS § 11-172 (Supp. 2007).

2. An election complaint filed by a plaintiff who is not within a category of plaintiffs specified by HRS § 11-172 is subject to dismissal for lack of standing. Elkins v. Ariyoshi, 56 Haw. 47, 48, 527 P.2d 236, 237 (1974).

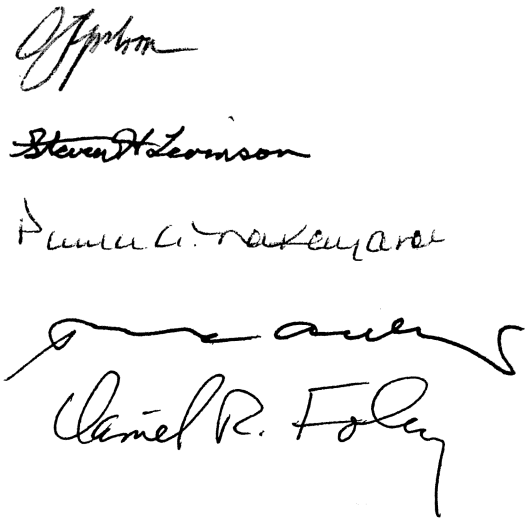
3. Plaintiff Castillo-Barkley is not within a category of plaintiffs specified by HRS § 11-172. She is not a proper party to the election contest complaint and she lacks requisite standing under HRS § 11-172.

JUDGMENT

Based upon the foregoing findings of fact and conclusions of law, the election contest complaint is dismissed.

The clerk of the supreme court shall forthwith serve a certified copy of this judgment on the chief election officer in accordance with HRS § 11-173.5(b).

DATED: Honolulu, Hawai'i, October 2, 2008.

Mary Jean Castillo-Barkley,
plaintiff *pro se*
on the complaint

Aaron H. Schulaner,
General Counsel, Office of
Elections, for defendant
Kevin B. Cronin on the
motion to dismiss