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No. SCPW-22-0000078

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

WILLIAM M. HICKS; RALPH BOYEA;  
MADGE SCHAEFER; MICHAELA  
IKEUCHI; KIMEONA KANE; MAKI  
MORINOUE; ROBERTA MAYOR;  
DEBORAH WARD; JENNIFER  
LIENHART-TSUJI; LARRY S. VERAY; and  
PHILIP BARNES,

Petitioners,

vs.

THE 2021 HAWAI‘I REAPPORTIONMENT  
COMMISSION AND ITS MEMBERS; THE  
STATE OF HAWAI‘I OFFICE OF  
ELECTIONS; and SCOTT NAGO, in his  
official capacity as Chief Elections Officer,  
State of Hawai‘i,

Respondents.

ORIGINAL PROCEEDING

DECLARATION OF DIANE T. ONO

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I, DIANE T. ONO, declare that:

1. I am a resident of the City and County of Honolulu, State of Hawai‘i, and am one of the Vice-Chairs of the 2021 Reapportionment Commission (“Commission”).
2. I am also an attorney who is duly licensed to practice before all Courts in the State of Hawai‘i.
3. By letter dated March 17, 2021, I was appointed to the Commission by Speaker of the House Scott K. Saiki.

4. On May 17, 2021, I was assigned to serve on the Commission's Technical Committee, along with three other Commissioners: Dylan Nonaka, Charlotte Nekota, and Kevin Rathbun.

5. On August 26, 2021, I was elected as one of two Vice-Chairs for the Commission. The other Vice-Chair is Dylan Nonaka.

6. The primary task of the Technical Committee was to propose, for the full Commission's review and consideration, two sets of plans: (1) a legislative reapportionment plan based on the permanent resident base adopted by the Commission; and (2) a congressional reapportionment plan based on the total population counted in the 2020 United States Census.

7. In developing the Plans, the Technical Committee considered constitutional and statutory guidelines (including Article I, Section 2 of the United States Constitution, and Hawaii Revised Statutes ("HRS") § 25-2 and the Standards and Criteria Governing the 2021 Reapportionment and Redistricting Process ("Standards") adopted by the Commission at its September 9, 2021 meeting). The Technical Committee also carefully considered oral and written public testimony and maps submitted by members of the public, as described in more detail below, and as further evidenced by revised proposed maps presented on December 22, 2021, January 13, and 26, 2022 after having reviewed public comments.

8. In discharging my duties as a member of the Technical Committee and as a member of the Commission, my belief was that the overarching objective was to ensure voter equality by constructing districts with substantial equality of population among the various districts, while taking into account constitutional and statutory guidelines and the Standards.

9. After the August 12, 2021 release of the 2020 United States Census redistricting data, the Technical Committee had an initial meeting via remote conferencing technology to

work on a congressional reapportionment plan to recommend to the Commission. The Technical Committee met remotely due to COVID-19 concerns, but it became readily apparent that attempting to redraw congressional district lines via remote conferencing technology was too difficult. This is because redrawing lines which coincide with census block boundaries and easily recognizable features and geographical features required the Technical Committee members to be able to focus on the same area of the map at the same time, oftentimes zooming in and out. Thereafter, the Technical Committee agreed to meet in-person.

10. The redistricting process is dynamic and complex. It is not a matter of applying a mathematical formula. If redistricting could be reduced to a mathematical formula, then the process could be accomplished by a computer or a single person. The Technical Committee members, and ultimately, the Reapportionment Commission, must exercise discretion in many aspects of the redistricting. The process typically begins with deciding where to start the redistricting process for each Basic Island Unit, and then how to balance the redistricting guidelines to construct districts with an equal apportionment base, or as near thereto as is practicable.

11. It is my understanding that one of the constitutional guidelines for re-districting is that district lines should follow permanent and easily recognized features, including geographical features, when practicable. Makapuu Point, a historically recognized geographical feature, is such a line and can be used as a district boundary between Hawaii Kai and Waimanalo. It is also my understanding that one of the constitutional guidelines for re-districting is that, where practicable, submerging an area in a larger district with substantially different socio-economic interests should be avoided.

12. One example that illustrates how the Technical Committee balanced the guidelines was in drawing the house districts for Windward O‘ahu and Hawaii Kai. Based on August 2021 U.S. Census data, the Technical Committee understood that the Waimanālo population would comprise approximately 40% of any house district in which it was placed.

13. On October 14, 2021, the Technical Committee proposed including Waimanālo in a new House District 51, that wraps around Makapuu Point. This “wrap-around” house district included Portlock (in Hawai‘i Kai) and portions of Kailua. In doing so, the Technical Committee sought to balance several constitutional redistricting guidelines. First and foremost, the population of proposed House District 51 should be approximately equal to the average population for the house districts according to the apportionment base. Other redistricting guidelines that we considered included the above-mentioned geographical feature guideline, and the “no submergence” guideline discussed above, as well as the district-within-district guideline.

14. By population, proposed House District 51 would be comprised of roughly 40% Waimanālo’s residents, 25% Portlock residents, and 35% Kailua residents. As a result, no single neighborhood would represent a numerical majority of the population in the proposed house district. Thus, the proposed House District 51 would comport with the “no submergence” guideline because no single area would be entirely submerged in an area wherein different socio-economic interests predominate.

15. In addition, the proposed House District 51 mirrored Senate District 25, as drawn by the 2011 Reapportionment Commission. The boundaries of Senate District 25 have largely been in place for the past 20 years. Placing the proposed House District 51 wholly within Senate District 25 comports with the constitutional guideline regarding placing representative districts wholly within senatorial districts.

16. On October 28, 2021, the Commission voted unanimously to adopt the legislative re-district plan proposed by the Technical Committee. Commission Staff then scheduled a total of 11 public hearings statewide, including three on Oahu.

17. With regard to House District 51, the Commission received substantial oral and written public comment in connection with the public hearings. Some of the testimony was submitted by the named Petitioners, and some testifiers asked the Commission to jettison the wrap-around house district, and to reinstate Makapuu Point as a district boundary. One of the reasons cited in the public testimony was the concern that the socio-economic interests in Hawaii Kai would predominate over those of Waimanālo and dilute Waimānalo residents' representation.

18. In response to the concern raised by the public testimony, the Technical Committee decided to use Makapuu Point as a district boundary in its proposed final legislative plan which it presented to the Commission on January 13, 2022. The Commission adopted the final reapportionment plan by 8 to 1 vote at its January 28, 2022 meeting.

19. The choice to revert to Makapuu Point as the district boundary in response to public comment significantly impacted the rest of the House plan for the Island of O'ahu. First, it caused the Technical Committee to re-draw boundary lines moving northward from Makapuu Point, rather than some other point, in order to ensure as near equal population as possible for each single-member house district. Second, it caused the Technical Committee to have to reconsider and rebalance constitutional and statutory re-districting criteria for each of the newly drawn house districts.

20. Another example of the Technical Committee's response to a concern raised by public testimony involved keeping the Manoa community together. Since the last

reapportionment, the population on Oahu has shifted to West Oahu. Therefore, the Technical Committee's initial proposed plans split the Manoa community into two districts. However, after listening to both oral and written testimony encouraging the Commission to keep Manoa as one, the boundary lines were redrawn and Manoa was kept as one community. The same considerations were applied to the McCully-Moiliili community, and it too was kept together as one community after initial proposed plans split that community.

21. More generally, each time the Technical Committee made an adjustment to one of the plans, it resulted in additional recommended modifications to the map for the respective island unit. Those further recommendations could be made only after the Committee engaged in a two-step process: first, re-draw the boundary lines to address public concern and re-draw district lines for adjacent districts radiating outwards from the new lines to approximate the average population for the legislative district; and second, reconsidering the amended house, senate, or congressional district in light of the constitutional and statutory criteria, and the Standards and then making appropriate adjustments in light of these criteria, as necessary.

22. Another notable adjustment occurred when the Commission received new military numbers on December 31, 2021 and determined that one House seat would move from Oahu to Hawaii Island. With the revised filing deadline looming and the Chief Election Officer informing the Commission that he would need at least one month to prepare for candidate filing (scheduled to begin on March 1, 2022), the Technical Committee had to revise the plans to account for a House seat shifting and revised population targets. Because the plans the Technical Committee had developed to date were not only a product of extensive public input, but reflected a careful balancing of the redistricting criteria, the Technical Committee decided to start with its

existing plans and make adjustments as necessary to ensure voter equality and balance the redistricting criteria.

23. It is my belief that the final reapportionment plans recommended by the Technical Committee on January 26, 2022 and adopted on January 28, 2022 achieve the overriding objective of voter equality and best represent the balancing of constitutional and statutory redistricting criteria, as well as the Standards.

I, DIANE T. ONO, declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawai'i, March 11, 2022.

*Diane T. Ono*

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DIANE T. ONO