

SCPW-22-0000078

Electronically Filed
Supreme Court
SCPW-22-0000078
11-MAR-2022
11:58 AM
Dkt. 54 DEC

IN THE SUPREME COURT OF THE STATE OF HAWAII

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,

ORIGINAL PROCEEDING

DECLARATION OF SCOTT T. NAGO

Petitioners,

v.

THE 2021 HAWAII
REAPPORTIONMENT COMMISSION
AND ITS MEMBERS; THE
STATE OF HAWAII OFFICE OF
ELECTIONS; AND SCOTT NAGO, IN
HIS OFFICIAL CAPACITY AS CHIEF
ELECTIONS OFFICER, STATE OF
HAWAII,

Respondents.

DECLARATION OF SCOTT T. NAGO

I, SCOTT T. NAGO, declare that:

1. I am a resident of the City & County of Honolulu and am the Chief Election Officer of the State of Hawaii.
2. As the Chief Election Officer, I also serve as the secretary of the Reapportionment Commission, and under the direction of the Reapportionment Commission, I furnish all necessary technical services.
3. I make this declaration based on my personal knowledge and am competent to testify as to the matters set forth herein.

4. My understanding of the petition is that it seeks the filing of new reapportionment plans for purposes of the 2022 Elections.

5. As described in this petition, the proposed filing of new reapportionment plans by the 2021 Reapportionment Commission would have a significant impact on the execution of the 2022 Elections.

6. The constitutional timeline for reapportionment has always been understood to be part of the overall constitutional and statutory framework of our elections.

7. Essentially, the actual filing of the plans may be the end of the duties and responsibilities of the Reapportionment Commission, but it is the beginning of a variety of election matters that rely on those plans.

8. Specifically, there is a multitude of tasks that must be completed to conduct the elections by both our office as well as the county clerks.

9. These tasks, starting with candidate filing and voter registration, cannot be done without the final plans from the Reapportionment Commission.

10. For example, once the final plans are adopted, we begin drawing precinct lines and updating the statewide voter registration system to correctly assign all voters to their proper precinct, which we refer to as the "precincting" process.

11. These precincts have their own boundaries that must take into account the boundaries of the districts established by the redistricting process for federal, state, and county districts, where applicable by county redistricting commissions.

12. This process in the past has taken up to a month to complete and impacts our ability to conduct candidate filing and the ballot access rights of candidates.

13. For example, if the precincting process is not completed by the time candidate filing opens, election officials will not be able to use the statewide voter registration system to immediately confirm that candidates and signatories of nomination papers are residents of the required district associated with the office. Instead, a manual process in which one would need to look up the voter or candidate's residence address and then find the address on a reapportionment map would be necessary to confirm eligibility.

14. We estimate this would significantly increase the time and staff required for candidate filing and require additional planning and preparation to address possible errors in this manual process.

15. Additionally, the county clerks, who are responsible for voter registration and who we support through our management of the statewide voter registration system, need time to perform voter registration list maintenance by conducting various mailouts notifying voters of the changes to their district/precinct, performing a separate mailing to those identified by the United States Postal Service as no longer having a current address, and finally removing those voters who meet certain statutory requirements.

16. This list maintenance process, pursuant to 52 USC § 20507, has to be completed no later than the 90th day prior to the Primary Election. This process starts once the precincting and updating of the statewide voter registration is completed. Any delay in this process undermines our ability to meet this deadline and to correspondingly update and ensure the ongoing integrity of the voter registration rolls.

17. With the move to elections by mail in 2020, in which every active registered voter in the system is mailed a ballot, it is even more critical to ensure by the

90th day prior to an election that list maintenance has been completed. The consequence otherwise is the mailing of ballots to individuals who may not be qualified to vote.

18. Finally, there are various other tasks that rely on precincting, such the programming and testing of the voting system, along with numerous administrative matters that require the assignment and tracking of personnel and resources by precinct.

19. Simply put, precincting is one of the cornerstones of the administration of our elections. Elections cannot be conducted without precincts and any delay in the reapportionment process delays our ability to conduct the precincting process and everything that relies upon it.

20. In the present case, the reapportionment plans were filed on January 28, 2022. Election officials immediately began the precincting process and expect to complete the updating of the statewide voter registration assignment on February 27, 2022 (Sunday) in advance of the opening of candidate filing on March 1, 2022 (Tuesday).

21. As in the past, this process is taking approximately a month and needed to compete with other normal activities election officials were addressing in the election season. Additionally, the Office of Elections needed to provide support to the County of Kauai in its preparations for its general election to fill a vacancy in the office of county prosecutor that is scheduled for February 26, 2022 (Saturday). The completion of the precincting process will be followed by the previously mentioned list maintenance process that needs to be completed by May 15, 2022 (Sunday), as that is the 90th day prior to the Primary Election.

22. To the extent the Hawaii Supreme Court entertains ordering the Reapportionment Commission to reconvene again to develop new plans, a consideration of the previously mentioned matters related to the precincting process that follows the filing of the reapportionment plans would be appropriate as we would need to start from square one and it would have a significant impact on the ability of election officials to successfully conduct the 2022 Elections.

23. In regard to historical matters, I would note that the notice of the 2021 Reapportionment Commission's proposed legislative and congressional reapportionment plans and public hearings related thereto signed by Chair Mark Mugiishi and dated November 3, 2021 was posted on the Office of Elections' website that same day. The notice was subsequently published on November 9, 2021 statewide in the following newspapers: (1) Honolulu Star Advertiser, (2) Hawaii Tribune-Herald, (3) West Hawaii Today, (4) The Garden Island, and (5) Maui News. The notice announced eleven public hearings that were conducted from November 30, 2021 through December 10, 2021.

24. Following the adoption and filing with my office of the Reapportionment Commissions plans on January 28, 2022, I issued a notice of the final legislative reapportionment plan and the final congressional reapportionment plan for the State of Hawaii adopted by the 2021 Reapportionment Commission on January 31, 2022. This notice was posted on the Office of Elections' website that same day. The notice was subsequently published on February 8, 2022 statewide in the following newspapers: (1) Honolulu Star Advertiser, (2) Hawaii Tribune-Herald, (3) West Hawaii Today, (4) The Garden Island, and (5) Maui News.

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

DATED: Pearl City, Hawaii, March 11, 2022.



SCOTT T. NAGO