

No. \_\_\_\_\_

IN THE

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SUPREME COURT OF THE UNITED STATES

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Sedfrey M. Linsangan,

*Petitioner,*

vs.

Alice M. Taijeron; et al.,

*Respondents.*

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On Petition for a Writ of Certiorari to  
The United States Court of Appeals  
For the Ninth Circuit

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PETITION FOR A WRIT OF CERTIORARI

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## **I. QUESTIONS PRESENTED**

1. Is there anything else that I need to suffer or injure in order to qualify for the standing issue?

2. How could I live the quality of life that I desire if I cannot pursue my happiness in serving the people because Guam laws substantially burdened me and other people to run for office?

3. Did the court misinterpret the First Amendment of the Constitution the way it is written by creating a policy or requirement on grievances and Section 2 of Article III Constitution?

4. Am I not exempted for the three (3) elements of standing since Guam laws took away some of my constitutional rights and deprived me of my rights and privileges and therefore should not be a law?

## **II. Table of Contents**

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### **III. Petition for Writ of Certiorari**

Petitioner respectfully prays that a Writ of Certiorari be issued to review the judgment of the United States Court of Appeals for the Ninth Circuit.

### **IV. Opinions Below**

The opinion of the United States Court of Appeals appears at Appendix A to the petition.

The opinion of the United States District Court appears at appendix B to the petition.

The Report and Recommendation of the magistrate Judge of the United States District Court of Guam appears at Appendix C to the petition.

### **V. Jurisdiction**

The date on which the United States Court of Appeals decided my case was on August 24, 2020. A timely petition for rehearing en banc was denied by the United States Court of appeals on September 29, 2020 and a copy of the *Order Denying Rehearing en banc* appears at Appendix D. The jurisdiction of this court is invoked under 28 US. C. Section 1254 (1).

### **VI. List of Parties**

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgement is the subject of this

petition is as follows:

1. Alice M. Taijeron
2. Jadeen Tuncap
3. G. Patrick Civile
4. Joseph P. Mafnas
5. Joaquin P. Perez
6. Michael J. Perez
7. Benny Pinaula

**VII. Related Cases and Table of Authorities cited by  
Magistrate Judge Manibusan**

1. *Maya v. Center Corp.*, 658 F.3d 1060, 1068 (9<sup>th</sup> Circuit 2011) (quoting *Warth v. Seldin*, 422 U.S. 490, 501 (1975) “When determining Article III standing the court must accept as true and all material allegations of the complaint and construe the complaint in favor the of the complaining party. Decreased quality of Life is an injury in fact sufficient to support standing.

2. *Somers v. Apple, Inc.*, 729 F3d. 953, 959 (9<sup>th</sup> Cir. 2013) “A defendant is entitled to dismissal under Rule 12 (b) (6) when a complaint fails to state a cognizable legal theory or alleges insufficient facts under a cognizable legal theory.

3. *N. Star Int'l v. Ariz. Corp.*, Comm'n 720 F.2d 578, 571 (9<sup>th</sup> Cir. 1963)  
“The Ninth Circuit has explained that the purpose of a Rule 12 (b) 96) motion is to test a complaints legal sufficiency.

4. Federal Rules of Civil Procedure, Rule 8(a) “Generally, the plaintiff’s burden at this state is light since Rule 8(a) requires only that a complaint shall contain ... a short and plain statement of the claim showing the pleader is entitled to relief.

5. *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9<sup>th</sup> Cir. 2001)  
“All allegation of material fact are taken as true and construed in the light most favorable to the non moving party”

6. *Bretz v. Kelman*, 773 F.2d 1026, 1027 n.1. (9<sup>th</sup> Cir. 1985); See also, *Butler v. Long*, 752 F. 3d 1177, 1180 (9<sup>th</sup> Cir. 2014) “The Court has an obligation, especially in civil rights actions to construe pro se pleading liberally and gives the pro se plaintiff the benefit of any doubt.

7. Supplemental Authorities and established cases cited in Report and Recommendation (Appendix C)

### **VIII. Constitutional and Statutory Provisions Involved**

#### **1. First Amendment**

The right of the people to petition the government for a redress of grievances.

2. Ninth Amendment

The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people.

3. Fourteenth Amendment , *Fifth Amendment*

No state shall make or enforce any law which abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of law.

4. Fifteenth Amendment

The rights of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

5. Section 1983 of Title 42 USC.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's

judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

6. Subsection (a) of Section 15404 of Chapter 15 of 3 GCA. Conduct of Primary Elections.

(a) *I Maga 'låhen Guåhan and Segundu Na Maga 'låhi* team receiving a plurality of votes cast for a partisan nomination shall be the party nominees for the general election. No *I Maga 'låhen Guåhan and Segundu Na Maga 'låhi* team running in the independent column shall be eligible for general election ballot placement unless such team receives a minimum twenty percent (20%) of the total combined votes cast for the winning teams seeking partisan nomination.

7. Section 1422 of Title 48 Organic Act of Guam

“The Governor of Guam together with the Lt. Governor, shall be elected by a majority of the votes cast by the people who are qualified to vote for the members of the Legislature of Guam”. The Governor and Lt. governor shall be chosen jointly, by the casting by each voter of a single vote applicable to both offices.

8. Section 1421b(n) Bill of Rights of Title 48 Organic Act of Guam

“No discrimination shall be made in Guam against any person or account of race, language, or religion, nor shall the equal protection of the laws be denied”.



9. Section 1421b. Bill of Rights (a) Title 48 USC Organic Act of Guam.  
"Right of the people to petition the government for a redress of their grievances".

10. Section 1421b. (e) Bill of Rights Title 48 USC Organic Act of Guam  
"No person shall be deprived of life, liberty, or property without due process of law"

11. Section 1423a. Scope of Legislative Authority. "The legislative power of Guam shall extend to all rightful subjects of legislation not inconsistent with the provisions of this chapter and the laws of the United States applicable to Guam.

12. Section 1421b: (u) of Title 48 Organic Act of Guam. The following provisions of and amendments to the Constitution of the United States are hereby extended to Guam to the extent that they have not been previously extended to that Territory and shall have the same force and effect there as in the United States or in any State of the United States article I, section 9, clauses 2 and 3; article IV, section 1 and section 2, clause 1; the first to ninth amendments inclusive; the thirteenth amendment; the second sentence of section 1 of the fourteenth amendment; and the fifteenth and nineteenth amendments.

All laws enacted by Congress with respect to Guam and all laws enacted by the territorial legislature of Guam which are inconsistent with the provisions of this subsection are repealed to the extent of such inconsistency.

13. Section 1423K. Right of Petition. Any person in Guam shall have the unrestricted right of petition.

## **IX. Other**

Amended Complaint filed on June 21, 2018. (Appendix E)

I am very respectfully requesting that the court to please review the transcript of records on oral arguments dated January 9, 2020 because it will justify my case on all issues. The 40 pages limit prevented me to include the transcript of records.

## **X. Statement of the Case**

In May 2017, I attended the Guam Election meeting. I informed them that I want to run for Governor but finding a running mate in the primary election and excessive nominating petition is ~~but~~ denying me substantially to run for Governor. I also complained about the unequal treatment on nominating petition because other positions does not require one. I also raised the issue that mayoral candidate does not require a running mate in Primary election.

I explained to them that in the United States, it is not mandatory to run for governor with a Lt. Governor team in the primary election. Even in Presidential election, running mate is not needed in the primary election.

The Legal counsel advised me to see U.S. Congress regarding my grievances. I exhausted all avenues by seeing the Legislature five (5) times and Speaker of the Legislature to repeal the law that requires running mate but all in vain.

I have no resort but to file a lawsuit and represent myself since five (5) lawyers that I talked to will not take the case.

The case was filed on November 30, 2017 against the Guam Election Commission pursuant to Section 1983, Title 42 U.S.C. Motion to Dismiss was filed on December 21, 2017. On June 18, the Chief Judge granted the Motion to Dismiss but permitted me to file an amended complaint to name the appropriate section 1983 parties and allege facts that establish my claims are ripe upon the Report and Recommendation of the Magistrate Judge. Chief judge adopted in full the Report and Recommendation of the Magistrate Judge.

I filed an Amended Complaint to satisfy all the issues of the Chief Judge and Magistrate Judge on June 21, 2018.

Petitioner is a U.S. citizen, a U.S. Veteran and classified as Serviced Disabled Veteran, Small Business Owned. Primary and General Election are financed by taxpayers of Guam not by Republican and Democratic Parties. I have standing because I am a taxpayer that financed the Guam election. I have standing because Guam law substantially burdened me to run for Governor. I have standing because I cannot vote for my preferred Lt. Governor candidate in the primary election. I have standing even I do not run for office because of First Amendment and Bill of Rights of the people to petition the government for a redress of grievances. The grievances is not defined as particularized or concrete. But I suffered particularized and concrete injuries and my other grievances falls under general grievances. I have standing because the Guam law ran a foul or in contravention of my constitutional

rights, federal laws and Bill of Rights. It adversely affects the quality of life and happiness that I would like to pursue. It took the court two (2) years and two (2) months to decide on my case for lack of standing. My intention to run is dignified since I went to the proper channels to raised my concerns. I also moved for Preliminary Injunction so that I can run in the primary election. Petitioner is a former elected Guam Education Policy Board Member and passionate to serve the people of Guam, in a larger capacity as Governor. I believe Guam laws constitute invidious discrimination that provokes resentment and envy and should not be a law.

The Commissioners are acting under the color of Guam law Section 15404 of 3 GCA that deprives me of my rights, privileges secured by the Constitution and laws of the United States of America. Their actions in implementing the Guam law injured me to run for office. If the court will rule in my favor, ~~then~~<sup>then</sup> I can run for Governor in the primary election. All the candidates except one had hard time finding a running mate. Some end up teaming with candidates that lost in the Senatorial election. They cannot find a running mate that is incumbent or running mate that they desired because those will not run with them. But that should not be case, they have no choice but to get anybody so they can run for Governor. In 1990's, Jeff Pleadwell had to come up with his wife as running mate so he can run for Governor.

#### **XI. Reasons for Granting the Petition**

This case is not only about me, but to others that are similarly situated. It constitutes a national importance because it will establish a bad precedent that will discourage people and pro se filers to petition the government for redress of grievances

or file a lawsuit against the government.

The First Amendment and the rest of the constitution should be interpreted the way it is written. The Court should not make policy and amendment to the constitution because it would suppress the people's rights.

If the petition for Writ is not granted, it will not restore the rule of law and will not preserve the constitutional democracy. The right of the people to petition the government of their grievances will not<sup>be</sup> exercised by many.

Public officials such as Governor position manages the taxpayers and federal funds.

That is why it is imperative that there should be no law that substantially deny, burden, invidiously discriminate, and deprive citizens privileges to run for office.

The United States Court of Appeals has entered a decision in conflict with the decisions of the same Appeals Court and another U.S. State Court of Appeals on Pro Se filers.

The right to petition was shortchanged by limiting the grievances of the citizens to particularized and concrete grievance or injury. This is contrary to the

First Amendment language that should cover all types of grievances and fundamental principle of the constitution of Life, Liberty and Pursuit of Happiness.

The Constitution and law should not be restricted but expanded to carry out the Principle and Preamble of the Constitution.

## **XII. Conclusion**

For the foregoing reasons, I am very respectfully requesting that this Court issue a Writ of Certiorari to review the judgment of U.S. Court of Appeals for the Ninth Circuit.

Dated this 27 day of October, 2020.

Respectfully submitted,



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