

OFFICE OF ELECTIONS

STATE OF HAWAI'I

In the Matter of ISAAC W. CHOY, ) CHIEF ELECTION OFFICER'S  
 ) PRELIMINARY DECISION ON THE  
Democratic Candidate, ) MERITS OF THE CHALLENGE  
District 24, State ) OF FRANCISCO FIGUEIREDO;  
Representative. ) EXHIBIT "A"; CERTIFICATE  
 ) OF SERVICE

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CHIEF ELECTION OFFICER'S PRELIMINARY DECISION  
ON THE MERITS OF THE CHALLENGE OF FRANCISCO FIGUEIREDO

KEVIN B. CRONIN, Chief Election Officer, State of Hawai'i, pursuant to Hawai'i Revised Statutes ("HRS") § 12-8(d), hereby issues this Preliminary Decision on the Merits of the Challenge of FRANCISCO FIGUEIREDO, filed July 28, 2008, challenging the candidacy of ISAAC W. CHOY, Democratic Candidate, District 24, State Representatives.

Kirk Caldwell filed his nomination papers for the State House of Representatives seat for District 24 on June 3, 2008. In the afternoon on Tuesday, July 22, 2008, between 4 o'clock p.m. and 4:30 p.m., Ms. Lori Tomczyk, the Ballot Operations Section Head of the Office of Elections, received a telephone call from Ms. Denise DeCosta, City Clerk, City and County of Honolulu, informing her that Kirk Caldwell would be filing nomination papers with her office and would be withdrawing his candidacy for State office. Ms. DeCosta informed Ms. Tomczyk that Mr. Caldwell would be bringing his withdrawal letter over to Ms. Tomczyk's office at the State Office Tower.

Following the telephone call Ms. Tomczyk expected Mr. Caldwell to arrive momentarily and checked to see whether he had come in with his withdrawal letter. Based upon the telephone call from Ms. DeCosta, Ms. Tomczyk entered a "W", indicating a withdrawal on the Office of Election's daily report. In the rush of candidates' filing before the 4:30 p.m. deadline on July 22, 2008, Ms. Tomczyk did not remember to confirm whether Mr. Caldwell's withdrawal letter had been delivered.

On Wednesday, July 23, 2008, Ms. Tomczyk checked again to see whether Mr. Caldwell had submitted his withdrawal letter and determined that he had not yet done so. Ms. Tomczyk then called Mr. Caldwell to remind him that the withdrawal letter needed to be filed with the Office of Elections. Following the reminder to Mr. Caldwell, a withdrawal letter was faxed to the Office of Elections and the original letter was then delivered and file stamped. See attached Exhibit "A".

Based upon the foregoing, the Chief Election Officer determines that Ms. DeCosta's telephone call to the Office of Election did not constitute a withdrawal of Mr. Caldwell's candidacy for the State House of Representatives, District 24 seat. Mr. Caldwell did not notify the Office of Elections on Tuesday, July 22, 2008 of his withdrawal of his State candidacy

nor did he submit his withdrawal letter on that day. Instead, Mr. Caldwell submitted his withdrawal letter on Wednesday, July 23, 2008.

Accordingly, a vacancy for the District 24 House of Representatives seat occurred on Wednesday, July 23, 2008 and the time for the Democratic Party to fill the vacancy began to run from that date and expired at 4:30 p.m. on Saturday, July 26, 2008. The Democratic Party timely filled the vacancy for the District 24 House of Representatives seat by naming ISAAC W. CHOY as its candidate on Saturday, July 26, 2008, before the 4:30 p.m. deadline.

The challenge of FRANCISCO FIGUEIREDO is hereby denied.

DATED: Honolulu, Hawai'i,

July 30, 2008

Kevin Cronin

KEVIN B. CRONIN  
Chief Election Officer  
State of Hawai'i

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "CHIEF ELECTION OFFICER'S PRELIMINARY DECISION ON THE MERITS OF THE CHALLENGE OF FRANCISCO FIGUEIREDO" was duly served on the following persons by U.S. Mail, postage prepaid, addressed as follows:

Francisco Figueiredo  
1615 Wilder Avenue, Apt. 402  
Honolulu, Hawai'i 96822

Isaac W. Choy  
3313 Keahi Street  
Honolulu, Hawai'i 96822

Brian Schatz  
Democratic Party of Hawai'i  
1050 Ala Moana Blvd., Suite D-26  
Honolulu, Hawai'i 96814

Willes K. Lee  
Republican Party of Hawai'i  
725 Kapiolani Blvd., C-105  
Honolulu, Hawai'i 96813

DATED: Honolulu, Hawai'i,

July 30, 2008

Kevin Cronin

Kevin B. Cronin

Kirk Caldwell  
P O Box 131  
Honolulu, HI 96810  
July 22, 2008

Mr. Kevin Cronin, Chief Election Officer  
State of Hawaii Office of Elections  
802 Lehua Avenue  
Pearl City, Hawaii 96782

Re: Withdrawal of Candidacy from State House 2008 Election --  
24th Representative District (Manoa, Moiliili, Punahou, and University)

Dear Mr. Cronin:

I hereby withdraw my candidacy from the State House of Representatives 2008 election for the 24<sup>th</sup> Representative District (Manoa, Moiliili, Punahou, and University).

If you have any questions, please call me at 539-0461. Thank you.

Very truly yours,



Kirk Caldwell

OFFICE OF ELECTIONS

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