

NO. 25410

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

A. JORIS WATLAND and ERIC GENE SCHNEIDER,
Plaintiffs-Appellants,

vs.

DWAYNE D. YOSHINA, CHIEF ELECTION OFFICER FOR
THE STATE OF HAWAI'I, individually and in his official capacity;
and WENDELL KIMURA, ACTING DIRECTOR OF THE STATE OF HAWAI'I
LEGISLATIVE REFERENCE BUREAU, individually and
in his official capacity, Defendants-Appellees.

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 02-1-2485-10)

ORDER

(By: Moon, C.J., Levinson, Nakayama, and Ramil, JJ.,
and Acoba, J., Dissenting)

Upon consideration of Plaintiffs-Appellants A. Joris Watland and Eric Gene Schneider's emergency motion for temporary restraining order, the papers in support and opposition, and the records and files herein, it appears (1) Appellants are appealing from an order denying a motion for a temporary restraining order and ask the court to issue an injunction related to the restraining order; (2) it is well-settled that the right to appeal is purely statutory and exists only when given by some constitutional or statutory provision. Burke v. County of Maui, 95 Hawai'i 288, 289, 22 P.3d 84, 85 (2001); Oppenheimer v. AIG Hawai'i Ins. Co., 77 Hawai'i 88, 91, 881 P.2d 1234, 1237 (1994); Chambers v. Leavey, 60 Haw. 52, 57, 587 P.2d 807, 810 (1978); (3) HRS § 641-1(a) governs this appeal and provides in relevant part that appeals shall be allowed in civil matters, from all final

judgments, orders or decrees of circuit courts; (4) the order being appealed is not a final judgment, and the circuit court did not grant Plaintiffs-Appellants leave to take an interlocutory appeal; and (5) no exception to the final judgment rule applies in this case. Therefore,

IT IS HEREBY ORDERED that the emergency motion for a temporary restraining order is denied. The denial of the motion is without prejudice to the completion of the underlying circuit court case and entry of judgment and without prejudice to an election contest filed in accordance with law.

DATED: Honolulu, Hawai'i, November 4, 2002.