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LAURA CASTILLO NAGI, and  
EQUALLY AMERICAN

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII**

VICENTE TOPASNA BORJA,  
EDMUND FREDERICK SCHROEDER,  
JR., RAVINDER SINGH NAGI,  
PATRICIA ARROYO RODRIGUEZ,  
LAURA CASTILLO NAGI, and  
EQUALLY AMERICAN,

Plaintiffs,

v.

SCOTT NAGO,  
in his official capacity as the Chief  
Election Officer for the Hawaii Office  
of Elections,

GLEN TAKAHASHI,  
in his official capacity as Clerk for the  
City and County of Honolulu,

UNITED STATES OF AMERICA,

LLOYD J. AUSTIN III,  
in his official capacity as the Secretary  
of Defense,

No. CV 20-00433 JAO-RT

Judge Jill A. Otake

Magistrate Judge Rom Trader

**PLAINTIFFS' CONCISE  
STATEMENT OF UNDISPUTED  
MATERIAL FACTS IN  
SUPPORT OF PLAINTIFFS'  
MOTION FOR SUMMARY  
JUDGMENT; DECLARATION  
OF ANTHONY "T.J." QUAN;  
EXHIBITS "A"- "J";  
CERTIFICATE OF  
COMPLIANCE; CERTIFICATE  
OF SERVICE**

FEDERAL VOTING ASSISTANCE  
PROGRAM,

DAVID BEIRNE,  
in his official capacity as Director of the  
Federal Voting Assistance Program,

Defendants.

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**PLAINTIFFS' CONCISE STATEMENT OF UNDISPUTED MATERIAL  
FACTS IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY  
JUDGMENT**

Plaintiffs Vincente Topasna Borja, Edmund Frederick Schroeder, Jr., Ravinder Singh Nagi, Patricia Arroyo Rodriguez, Laura Castillo Nagi (“Individual Plaintiffs”), and Equally American Legal Defense and Education Fund (together, “Plaintiffs”), by and through their undersigned counsel, hereby submit this Concise Statement of Undisputed Material Facts in Support of their Motion for Summary Judgment, pursuant to LR 56.1(a) of the Rules of the United States District Court for the District of Hawaii.

	<b>FACTS</b>	<b>EVIDENTIARY SUPPORT</b>
1	Plaintiff Vincente Topasna Borja is a U.S. citizen born in Guam and currently residing in Santa Rita, Guam.	Declaration of Vincente Topasna Borja, attached hereto as Ex. A, ¶¶ 1, 3.
2	Mr. Borja served in the United States Navy from 1969 to 1997, when he was honorably discharged.	<i>Id.</i> at ¶ 4.
3	In 1990, Mr. Borja received humanitarian reassignment to Hawaii so his wife could undergo cancer treatment.	<i>Id.</i> at ¶ 7.
4	Mr. Borja moved back to Guam shortly before his wife’s death, so that she could spend her remaining days with friends and family, and has lived on the island since.	<i>Id.</i> at ¶ 8.
5	Despite being registered to vote in Guam and participating in local elections, Mr. Borja is not eligible to vote for President or voting representation in Congress in Guam.	<i>Id.</i> at ¶ 9.
6	Mr. Borja is not considered eligible to vote absentee in his last state of residence, Hawaii.	<i>Id.</i> ; Joint Stipulated Facts, ECF No. 136

	<b>FACTS</b>	<b>EVIDENTIARY SUPPORT</b>
		at ¶ 9, attached hereto as Ex. B.
7	Plaintiff Edmund Frederick Schroeder, Jr. is a U.S. citizen born in North Carolina and currently residing in Mangilao, Guam.	Declaration of Edmund Frederick Schroeder, Jr., attached hereto as Ex. C, ¶¶ 1, 3.
8	Dr. Schroeder was drafted into the United States Armed Forces before beginning medical school.	<i>Id.</i> at ¶ 4.
9	After graduation and residency, Dr. Schroeder was stationed at Schofield Barracks in Hawaii in 1976.	<i>Id.</i> at ¶ 5.
10	Dr. Schroeder was honorably discharged from the military in 1979 and continued practicing medicine in Hawaii until 1984, when he moved to Guam.	<i>Id.</i> at ¶¶ 6, 7.
11	Dr. Schroeder has been living in Guam since 1984.	<i>Id.</i> at ¶ 7.
12	Despite being registered to vote in Guam and participating in local elections, Dr. Schroeder is not eligible to vote for President or voting representation in Congress in Guam.	<i>Id.</i> at ¶ 11.
13	Dr. Schroeder is not considered eligible to vote absentee in his last state of residence, Hawaii.	<i>Id.</i> ; Ex. B at ¶ 10.
14	Plaintiff Ravinder Singh Nagi is a U.S. citizen born in Guam and currently residing in St. Thomas, U.S. Virgin Islands.	Declaration of Ravinder Singh Nagi, attached hereto as Ex. D, ¶ 1.
15	Mr. Nagi moved to Hawaii in 2002 to start his legal career.	<i>Id.</i> at ¶ 3.
16	In 2005, Mr. Nagi moved to the U.S. Virgin Islands, where his family had since relocated from Guam, and where he continues to live and practice law.	<i>Id.</i> at ¶¶ 4-5.
17	Mr. Nagi supported the presidential campaign of Barack Obama in 2008 and while he was able to vote for Mr. Obama during the primary election and contribute financially to his campaign, Mr. Nagi was ineligible to vote for Mr. Obama for President during the General Election.	<i>Id.</i> at ¶¶ 8-9.

	<b>FACTS</b>	<b>EVIDENTIARY SUPPORT</b>
18	Mr. Nagi remains ineligible to vote for President or for voting representation in Congress in the U.S. Virgin Islands.	<i>Id.</i> at ¶ 9.
19	Mr. Nagi is not considered eligible to vote absentee in his former state of residence, Hawaii.	<i>Id.</i> ¶¶ 4, 12, 14; Ex. B at ¶ 11.
20	Plaintiff Patricia Arroyo Rodriguez is a U.S. citizen born in Texas and currently residing in Tumon, Guam.	Declaration of Patricia Arroyo Rodriguez, attached hereto as Ex. E, ¶ 1.
21	Ms. Rodriguez was a resident of Hawaii from 1978 to 1994.	<i>Id.</i> at ¶ 3.
22	Despite being an active voter all her life, Ms. Rodriguez is ineligible to vote for President or voting representation in Congress in Guam.	<i>Id.</i> at ¶¶ 8, 10.
23	Ms. Rodriguez is not eligible to vote absentee in her former state of residence, Hawaii.	<i>Id.</i> at ¶¶ 3, 10; Ex. B at ¶ 12.
24	Plaintiff Laura Castillo Nagi is a U.S. citizen born in Illinois and currently residing in St. Thomas, U.S. Virgin Islands.	Declaration of Laura Castillo Nagi, attached hereto as Ex. F, ¶ 1.
25	In 2002, Ms. Nagi moved to Hawaii to continue her legal career.	<i>Id.</i> at ¶ 3.
26	Ms. Nagi moved from Hawaii to St. Thomas in 2005, where she continues to live and practice law.	<i>Id.</i> at ¶¶ 5-6.
27	Despite voting for President while living in Hawaii, Ms. Nagi is ineligible to vote for President or voting representation in Congress in the U.S. Virgin Islands.	<i>Id.</i> ¶¶ 4, 9.
28	Ms. Nagi is not considered eligible to vote absentee in her former state of residence, Hawaii.	<i>Id.</i> at ¶ 9; Ex. B at ¶ 13.
29	Plaintiff Equally American Legal Defense and Education Fund (“Equally American”) is a nonpartisan civil rights organization that advocates for equality and voting rights for citizens living in the U.S. territories.	Declaration of Neil Weare, President of Equally American Legal Defense and Education Fund, attached hereto as Ex. G, ¶ 3.

	<b>FACTS</b>	<b>EVIDENTIARY SUPPORT</b>
30	Equally American’s membership includes Individual Plaintiffs and other residents of Guam, the U.S. Virgin Islands, Puerto Rico, American Samoa, and the Northern Mariana Islands (“NMI”) who are former residents of Hawaii or other states, including Individual Plaintiffs, Dr. Thomas Shieh, a U.S. Navy veteran who was a resident of Hawaii prior to being stationed in Guam, and Renata Bordallo, who established residency as a student in Hawaii before moving to Guam.	<i>Id.</i> at ¶ 7.
31	Equally American works to raise the visibility of disenfranchised Americans at a national level.	<i>Id.</i> at ¶ 6.
32	Equally American believes that if the Individual Plaintiffs and other former Hawaii citizens living in Guam, the U.S. Virgin Islands, American Samoa, and Puerto Rico could fully exercise their right to vote, it would provide new opportunities for national political engagement and create an incentive for Congress and the President to ensure voting rights for all territorial residents.	<i>Id.</i> at ¶ 8.
33	The Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) provides that “[e]ach State shall permit . . . overseas voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office.”	52 U.S.C. § 20302(a)(1), attached hereto as Ex. H.
34	UOCAVA defines an “overseas voter” as including “a person who resides outside the United States and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the United States.”	<i>Id.</i> § 20310, attached hereto as Ex. I.
35	UOCAVA states that the term “‘United States,’ where used in the territorial sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa;” the NMI is not included in the definition.	<i>Id.</i>

	<b>FACTS</b>	<b>EVIDENTIARY SUPPORT</b>
36	The effect of UOCAVA's definition of "United States" is that citizens living in the NMI are eligible to vote absentee for President and voting representation in Congress in their last state of residence, but citizens living in other territories are not eligible.	<i>Id.</i>
37	The Uniform Military and Overseas Voters Act ("UMOVA") implements the federal requirements of UOCAVA in Hawaii.	H.R.S. §§ 15D-1 to -18, attached hereto as Ex. J.
38	UMOVA defines the "United States," when used in the territorial sense, as "the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States," which, strictly read, does not grant enfranchisement to former state residents who move to any territory.	<i>Id.</i> at § 15D-2.
39	Through the enactment of regulatory rules by the Hawaii Office of Elections, Hawaii abides by the requirements of UOCAVA.	H.A.R. § 3-177-600, attached hereto as Ex. K.
40	The effect of UMOVA and the regulatory rules enacted by the Hawaii Office of Elections is that U.S. citizens whose last state of residence was Hawaii and who are currently living in the NMI may vote absentee in Hawaii in presidential and congressional elections as "overseas voters," while U.S. citizens whose last state of residence was Hawaii and who are currently living in other territories cannot.	Ex. J at § 15D-2; Ex. K; Ex. H; Ex. I.
41	Hawaii is the last state of residence of each of the Individual Plaintiffs.	Ex. B at ¶¶ 9-13.
42	The Individual Plaintiffs are not "overseas voters" as defined by UMOVA and UOCAVA.	Ex. B at ¶¶ 5, 8.
43	The Individual Plaintiffs seek to vote absentee in presidential and congressional elections in Hawaii.	Ex. B at ¶ 14.

DATED: Honolulu, Hawaii, November 22, 2021

/s/ Anthony Quan

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