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Honolulu Prosecutor Illegally Used Powers of Office to Campaign for Ballot Initiative ACLU Lawsuit Charges

Honolulu – Honolulu Prosecutor Peter Carlisle violated city laws as well as the free speech rights of taxpayers when he improperly spent nearly \$2,500 in public funds and used other public resources to campaign for the passage of Ballot Question 3 in last year's general election, the American Civil Liberties Union of Hawai'i charged in a lawsuit filed today.

"The government's use of public resources to advocate for one view over another in an election violates the First Amendment rights of citizens who have contrary views," said ACLU of Hawaii Legal Director Brent White. "In addition, when government resources are directed to one viewpoint over another, the right of all citizens to a free and fair election is seriously compromised."

"The issue here is not about the Prosecutor's right to free speech, but about his illegal use of taxpayer resources to express his personal views," White added. "We are also disturbed at the Attorney General's failure to take action against the Prosecutor, while at the same time his office forbade the Public Defender from similarly using taxpayer resources to express an opposing viewpoint. That is a textbook definition of a double standard."

The lawsuit was filed in First Circuit Court on behalf of taxpayer and journalist Robert Rees. The ACLU seeks the return of taxpayer money used by Carlisle to campaign during the election. "This lawsuit is on behalf of those who saw their views on Ballot Question 3 overwhelmed by false campaigning conducted by the City Prosecutor's Office at the expense of the taxpayers," said Rees.

Campaign spending disclosures indicate that Carlisle used at least \$2,404.27 of City and County of Honolulu taxpayer money to print brochures urging voters to vote "yes" to the proposed ballot question authorizing information charging. The lawsuit also charges that employees under Carlisle's supervision passed out campaign brochures to grand jury members during business hours and while on duty. Carlisle also used a taxpayer-supported website for the Office of the Prosecutor -- maintained by public

employees at unknown expense to taxpayers – to encourage voters to vote yes to Ballot Question 3.

However, the state Public Defenders office was forbidden by the state Attorney General's office from similarly campaigning against the ballot issue. Ballot Question 3 related to an amendment to the state constitution authorizing prosecutors to charge individuals with crimes without first having to present evidence to a grand jury or before a judge in a preliminary hearing showing that there is a sufficient legal basis for the charges.

On February 18, the ACLU sent a letter to Attorney General Mark Bennett criticizing his double standard in handling the matter and urging him to take action to ensure that election laws are equally applied. However, in a letter dated March 13, Bennett declined to take any action to rectify Carlisle's illegal use of public funds.

The ACLU previously filed an original action before the Hawai'i Supreme Court challenging the ratification of the amendment due to the State Office of Election's dissemination of misleading information and failure to properly publish the text of the amendment as required by the state constitution. A decision is pending in that case.

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