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IN THE KOSRAE STATE COURT
TRIAL DIVISION

_____)	
GERSON JACKSON,)	
)	
Plaintiff,)	Civil Action No. _____
)	
vs.)	
)	
KOSRAE STATE ELECTION)	COMPLAINT FOR DECLARATORY
COMMISSION,)	AND INJUNCTIVE RELIEF
)	
Defendant.)	
_____)	

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Gerson Jackson complains and alleges as follows:

1. This Court has jurisdiction pursuant to the Kosrae Constitution, Article VI, Section 6, and Sections 6.101, 6.201, 6.2101, and 6.2301 of the Kosrae Code.

2. Plaintiff Gerson Jackson is a citizen and resident of Kosrae. He is presently the Lieutenant Governor of the State of Kosrae, having first been elected to this office in 1994, and

reelected in 1998.

3. The Defendant Kosrae State Election Commission is a twelve-member body created by Title 3 of the Kosrae State Code to review and take appropriate action on petitions filed by persons aggrieved in connection with election matters.

4. Plaintiff meets the requirements for serving as Lieutenant Governor in the Kosrae State Constitution, Article V, Sections 4 and 6, which are that a person (a) be “a resident of the State for at least ten years immediately preceding filing for office,” (b) be “at least thirty-five years of age,” (c) be “a citizen of the Federated States of Micronesia,” (d) be “a Kosraean by birth,” (e) be “a qualified voter of the State,” and (f) have “not been convicted of a felony unless he has received a pardon restoring his civil rights at least five years prior to the election date.”

5. The Constitution of the State of Kosrae contains no language whatsoever that imposes any term limits on the Lieutenant Governor of the State.

6. Nonetheless, after Plaintiff asked to be listed as a candidate for the office of Lieutenant Governor in the November 2002 election, Defendant issued on August 8, 2002 a letter indicating, as its “initial determination,” that Plaintiff was “not a qualified candidate for the office of Lt. Governor.”

7. This determination was made without any reference to any language in the Kosrae Constitution, and was made even though Defendant acknowledged, in its letter of August 8, 2002, that: “The provisions of the Kosrae State Constitution are not explicit as to term limit applications to the Lt. Governor.”

8. Defendant also explained in its August 8, 2002 letter that its “initial determination” is not “a final finding,” and invited Plaintiff “to present evidence you believe supports the position that you are qualified to seek election as Lt. Governor in the next election.”

9. Plaintiff has on August 28, 2002 filed a memorandum with Defendant presenting evidence supporting his position that he is entitled to run for election as Lieutenant Governor in the November 2002 election.

10. Plaintiff is simultaneously filing this Complaint with the Kosrae State Court because of Plaintiff's concerns that delays may interfere with the ability to obtain a final ruling from the Court regarding this matter prior to the October 1, 2002 filing deadline for the November 2002 election.

11. Plaintiff is entitled to run for Lieutenant Governor in the November 2002 pursuant to the criteria listed in Article V, Sections 4 and 6 of the Kosrae State Constitution, and also pursuant to his right to free expression, which is guaranteed by Article II, Section 1(a) of the Kosrae State Constitution and by Article IV, Section 1 of the FSM Constitution.

WHEREFORE, Lieutenant Governor Gerson Jackson most respectfully prays for the following relief from this Court:

A. A declaration that he is entitled run for the office of Lieutenant Governor in the November 2002 election;

B. An injunction requiring the Kosrae State Election Commission to list his name as a candidate in the November 2002 election;

C. Such other and further relief as this Honorable Court may deem just and proper.

Respectfully submitted this 28th day of August 2002.

Jon M. Van Dyke
Attorney for Plaintiff
Lieutenant Governor Gerson Jackson