

APR 15 2004

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

at 11 o'clock and 06 min. ^{PM} A M.
WALTER A.Y.H. CHINN, CLERK

EARL F. ARAKAKI, et al.,)	CIVIL NO. 02-00139 SOM/KSC
)	
Plaintiffs,)	
)	ORDER DENYING PLAINTIFFS'
vs.)	MOTION TO SUPPLEMENT RECORD
)	ON APPEAL
LINDA LINGLE in her official)	
capacity as GOVERNOR OF THE)	
STATE OF HAWAII, et al.,)	
)	
Defendants.)	
)	

ORDER DENYING PLAINTIFFS'
MOTION TO SUPPLEMENT RECORD ON APPEAL

On April 14, 2004, Plaintiffs' filed a motion to supplement the record on appeal pursuant to Rule 10(e) of Federal Rules of Appellate Procedure.¹ That motion is denied.

Plaintiffs request that this court supplement the record with "true copies of letters found in this Court's files in this case." As those letters (Exs. 1-8, 16) are in the court's files, they are already considered to be part of the record. To the extent Plaintiffs wish to supplement the record with various demonstrative documents they used at the April 29, 2002, hearing, Plaintiffs fail to demonstrate how those documents are "material" to any point on appeal because they were never submitted as exhibits. Moreover, besides failing to show that


¹Rule 10(e) allows the supplementation of the record on appeal when "anything material to either party is omitted from or misstated in the record by error or accident." Fed. R. App. P. 10(e) (2).

the exhibits are "material" for purposes of Rule 10(e), Plaintiffs fail to demonstrate that any of the proposed exhibits was omitted from the record by "error or accident." See Fed. R. App. P. 10(e)(2). Finally, because the record in this case has not yet been forwarded to the Ninth Circuit, the filing of the present motion has placed into the record the exhibits that Plaintiffs desire to put into the record, making supplementation unnecessary.

For the foregoing reasons, Plaintiffs' motion to supplement the record on appeal is denied.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, April 15, 2004.


SUSAN OKI MOLLWAY
UNITED STATES DISTRICT JUDGE

Arakaki, et al. v. Lingle, et al., Civil No. 02-00139 SOM/KSC; ORDER DENYING PLAINTIFFS' MOTION TO SUPPLEMENT RECORD ON APPEAL.