



## O'AHU COUNTY COMMITTEE

Investigation Committee Report  
Complaint for Actions as Presidential Elector

October 13, 2017

Complaint Received: 01/30/2017 (attached)  
Accused Member Notified: 02/18/2017  
Accused Member's Response Received: 03/18/2017 (attached)

### **Allegations**

Complainant alleges Democratic Party member serving as a Presidential Elector violated DPH Constitution, Article VIII, Section 3 for not supporting the Democratic Party nominee for US President in the Electoral College election.

Complainant also requests the accused member be disciplined by the Democratic Party for violating Hawaii Revised Statute 14-28 (2013), which states that presidential electors shall vote for the candidates of the political party they represent.

There is no dispute that the accused member committed the act that is the basis for this Complaint.

The dispute would be whether the accused member violated the Party bylaws, or whether he committed an act subject to discipline as provided by Party bylaws.

### **On Violating DPH Constitution, Article VIII, Section 3**

The Complainant alleges the accused member's act violated DPH Constitution Article VIII, Section 3, which states:

"Every member of the Democratic Party of Hawai'i shall support candidates who are members of the Party and request the Party's support in the *general, special or nonpartisan* elections." (emphasis added).

This sentence in the Constitution defines the set of elections that Party members shall support. The sentence defines a *class* by its *members*. The class being *elections* and its members being *general, special* and *nonpartisan* elections. Robert's interpretation would imply members *not* in the class are *not* included.

Robert's 4<sup>th</sup> Principle of Interpretation (RONR 11<sup>th</sup> ed. p.589, I.33 – p.590, I.5) states:

*If the bylaws authorize certain things specifically, other things of the same class are thereby prohibited.*

The assumption is the intent of specifying things of a class that *shall* be done, implicitly *prohibits* being able to do things in the same class that were *not* specified.

An intention of specifying the list in Article VIII, Section 3, was to *exclude* primary elections, however a perhaps unintended consequence of such specification is that it also excludes *Electoral College* elections as a member of the class.

Therefore, this committee does not believe Article VIII, Section 3 has been violated because it would not apply in this case.

#### **On Violating Hawaii Revised Statute 14-28 (2013)**

The DPH Bylaws Article I Section 8A specifies the grounds for disciplinary action against a member. It includes 8A(1)(a) membership in another party, 8A(1)(b) running as a candidate in another party, 8A(2)(a) active support for non-Democrats, and 8A(2)(c) failure to abide by the Party Constitution or Platform.

Section 8A(2)(d) specifically states the only disciplinary grounds for violations defined by State government:

“Violation of governmental ethics codes as adjudicated or determined by the State Ethics Commission, the County Ethics Commission, the Office of Disciplinary Counsel, the State House, the State Senate, or the courts.”

The Constitution and Bylaws of the Democratic Party are specific on grounds for disciplinary action against a member.

Therefore, this committee does not believe the Party has the constitutional authority to discipline a member for violating public law in general or specifically Hawaii Revised Statute 14-28 (2013).

#### **In response to the accused assertions as described in a letter dated March 18, 2017 and titled: Answer to Disciplinary Complaint**

In response to paragraph 2.b and 2.c: Article II, Section 1.2 of the United States Constitution clearly says that state legislatures have jurisdiction over the appointment of electors. As stated in HRS 14-28, each elector “shall vote by ballot for that person...who are, respectively, the candidates of the political party or group which they represent.”

The Democratic Party of Hawai‘i elected the accused member as one of its four electors. Therefore, the Democratic Party of Hawai‘i was the organization the member represented in the Electoral College. The member states “I voted as I was elected to do. At the time of the Hawai‘i State Democratic Convention I was elected to vote for the Hawai‘i Democratic Party nominee, which at the time was Bernie Sanders, who had won 70% of the votes over Hillary Clinton in the Hawai‘i Democratic Party primary [sic].” The state’s electoral votes are awarded based not on the results of Hawai‘i’s Presidential Preference Poll (as was meant), but on the results of the general election. This was an abdication of the elector’s duty and responsibility to the Democratic Party of Hawai‘i to which he committed. The Democratic Party of Hawai‘i bylaws however do not identify the improper casting of an electoral vote by a presidential elector as a ground for discipline.

#### **Conclusion**

This committee has concluded that DPH Constitution, Article VIII, Section 3 does not apply to the Electoral College election so it therefore does not apply in this case.

This being a concern, the committee suggests the Party consider amending DPH Constitution Article VIII, Section 3 to include the electoral college, or more broadly, “*members shall support candidates who are endorsed by the Democratic Party.*”

This committee has also concluded that the Party has not the constitutional authority to discipline a member for violating Hawaii Revised Statute 14-28 (2013) or any Statute.

This being a concern, the committee suggests the Party consider amending DPH Bylaws Article I Section 8A possibly to include something like *"Section 8A(2)(e) Violation of public law relating to elections."*

This committee also suggests the party demand future candidates for Electors demonstrate understanding of the role of the Electoral College. We also suggest Elector candidates sign an oath committing to vote for the winner of the General Election, and that the violation of such oath be a disciplinary offense.

However, it is still therefore the recommendation of this committee that this Complaint be dismissed.

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Carlos Santana

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Tambry Young

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Natalia Hussey-Burdick

**Carolyn Golojuch, MSW**

92-954 Makakilo Dr. #71

Kapolei, HI 96707

Tel: 808 779-9078 E-mail: gomama808@gmail.com

DATE: January 30, 2017

TO: Oahu County Committee of the Democratic Party of Hawai'i

RE: Violation of the Democratic Party of Hawaii (DPH) with the Electoral Vote by David Mulinix

Aloha Oahu County Committee Chair and Secretary,

This letter is to file charges against David Mulinix for violating his duty as an Elector on December 19, 2016 when he voted for Independent Bernie Sanders, who was not a DEMOCRAT on the 2016 General Election Ballot.

**BASIS FOR COMPLAINT:**

1. The Constitution of the Democratic Party of Hawai'i as amended on May 29, 2016, Article VIII, General Provisions, Section 3: "...Every member of the Democratic Party of Hawai'i shall support candidates who are members of the Party and request the Party's support in the general, special or nonpartisan elections."

2. **Universal Citation:** HI Rev Stat § 14-28 (2013) END Citation

**§14-28 Convening and voting for president and vice president; party vote.** The electors, when convened, if both candidates are alive, shall vote by ballot for that person for president and that person for vice president of the United States, who are, respectively, the candidates of the political party or group which they represent, one of whom, at least, is not an inhabitant of this State. [L 1970, c 26, pt of §2; am L 1981, c 100, §2(5)]

David Mulinix, a member of the Democratic Party of Hawai'i residing in Oahu County, was elected by the Democratic Party of Hawai'i at the 2016 State Convention to be one of the four (4) State of Hawaii's Electors.

On December 19, 2019 in Room 329 of the Hawai'i State Capitol Elector David Mulinix voted for Independent Senator Bernie Sanders for President of the United States. Senator Sanders was not a member of the Democratic Party; Senator Sanders was in fact an Independent. To make matters worse Senator Sanders was not even on the ballot for the General Election. I believe by voting for Independent Senator Bernie Sanders, Mr. Mulinix violated both the Hawaii State Democratic Party Constitution and By-Laws. Mr. Mulinix violated State law (HI Rev Stat § 14-28) and should be held in violation of said law.

After Mr. Mulinix violated the trust placed in him by the Democratic Party of Hawai'i, I overheard him say to a reporter after the vote "Hillary never had a chance from the beginning". It



appears that Mr. Mulinix never planned on up-holding the office he was elected to or to vote in accordance of the Hawaii State Law.

In conclusion, I hereby request that David Mulinix be found guilty of violating the Hawaii Democratic Party Constitution and By-Laws AND the Hawaii Revised Statute 14-28 (2013). As such, he should be expelled from the party for a period of FIVE years because his violation is above and beyond the perimeters of laws and rules of the regular Membership behavior.

**Evidence of the violation:**

Below you will find the links to the verified election results and the news stories that shows he voted for Independent Senator Bernie Sanders:

**1. Verified results of the General Election show that Hillary Clinton won with 61% of the vote:**

<http://files.hawaii.gov/elections/files/results/2016/general/histatewide.pdf>

**2. Hawaii News Now:**

<http://www.hawaiinewsnow.com/story/34093079/hawaii-faithless-electors-breaks-law-to-cast-dissenting-vote>

**3. LA Times Story re: Mr. Mulinix's vote:**

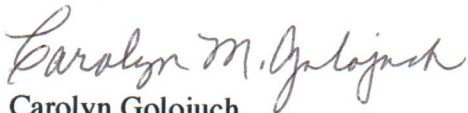
<http://www.latimes.com/nation/politics/trailguide/la-na-trailguide-updates-in-hawaii-bernie-sanders-electoral-1482196946-htmllstory.html>

**4. Listing of the Electoral College by State:**

<http://heavy.com/news/2016/12/electoral-college-vote-results-state-by-state-list-so-far-for-trump-clinton-faithless-electors-count-map/>

Mr. Mulinix violated the Hawaii State law and the majority of Hawaii voters at the General Election need to be made whole again.

Mahalo,



Carolyn Golojuch

Member of the Democratic Party of Hawai'i

Name	Address	County
1. Mike Gallegos	1212 Nuanunu St. #2104	Honolulu
2. Juliana Romero	91-1058 Kekuiani Ln. Kapolei, HI #L-1104 96707	Oahu
3. Teri D HEEDE	92-994 Kanehoa Loop Kapolei HI	Oahu
4. James Mateo	91-215 N. Whiwa Pl Ewa Beach, HI 96706	Oahu
5. Michele M. Golojuch	92-991 Makakilo Dr #71 Kapolei HI 96707	Oahu

DAVID MULINIX  
47-185 Hui Akepa Place, Apt A  
Kaneohe, Hawaii 96744  
March 18, 2017

Via email  
Mr. James Logue  
Secretary, Oahu County Democrats

Re: Answer to Disciplinary Complaint

Dear Mr. Logue:

This is my answer to the complaint filed against me by Ms. Carolyn M. Golojuch and others arising from my actions as a Presidential Elector for the State of Hawai'i. For the reasons detailed in this answer, the complaint should be dismissed as made in violation of applicable rules or in the alternative it should be dismissed as failing to state a proper and valid claim against me.

1. The complaint asserts violations of the Bylaws of the Democratic Party of Hawai'i (DPH), Article I, Section 8(b)(2), which requires that the complaint be accompanied by witness statements that are supported by affidavits. There are no witness statements and no affidavits. Therefore the complaint should be summarily dismissed.

2. Even if the complaint is not summarily dismissed, it should be denied on the merits for the reasons that follow.

a. The complaint claims that I violated the Bylaws of DPH, but the complaint fails to cite any Bylaw provision that I allegedly violated as a Presidential Elector, and it does not show how any action I took as a Presidential Elector was in violation of any Bylaw provision. Therefore, this part of the complaint should to be dismissed.

b. The complaint asserts that I am in violation of Hawai'i Revised Statutes Section 14-28, and it asks the Democratic Party to enforce this statute against me. There is no restriction on Electors in the Hawai'i Revised Statutes Section 14-28. Presidential Electors' right to vote are protected by the U.S. Constitution. Moreover, the Democratic Party has no legal authority to enforce Hawai'i state laws against me. Therefore, this part of the complaint also should be dismissed.

According to the U.S. National Archives: "The Supreme Court of the United States has not specifically ruled on the question of whether pledges and penalties for failure to vote as pledged may be enforced under the U.S. Constitution. No Elector has ever been prosecuted for failing to vote as pledged." And no Elector has ever been kicked out of the Democratic Party for doing so.

c. I did not violate Hawai'i Revised Statutes Section 14-28, which states "The electors, when convened, if both candidates are alive, shall vote by ballot for that person for president and that person for vice president of the United States, who are, respectively, the candidates of the political party or "GROUP WHICH THEY REPRESENT," one of whom, at least, is not an inhabitant of this State."

I voted as I was elected to do. At the time of the Hawai'i State Democratic Convention I was elected to vote for the Hawai'i Democratic Party nominee, which at the time was Bernie Sanders, who had won 70% of the votes over Hillary Clinton in the Hawai'i Democratic Party primary. The Bernie Sanders campaign is the Group which I was elected to represent. I voted as my constituents had asked me to do.

d. The complaint claims that I was in violation of the DPH Constitution, Article 8, Section 3. However, that claim is also defective and invalid for several reasons.

1) The first reason is that, as a Presidential Elector, my vote is constitutionally immune from challenge.

2) Second, as Ms. Golojuch knows, because she was present, shortly before the Hawai'i Presidential Electors cast their ballots, the Chair of our Electors, Mr. John Bickel, specifically asked for a legal opinion as to whether an Elector could lawfully cast a vote for someone other than the person who garnered the largest number of votes in Hawai'i. Mr. Bickel's question was answered by Valri L. Kunimoto, a Deputy Attorney General of the State of Hawai'i, who was present. Ms. Kunimoto stated that the Presidential Electors were free to vote their conscience.

Although Hawai'i law dictates how electors should cast their votes, there are no consequences connected to their actions should they vote differently than dictated.

3) Third, I did not violate Article 8, Section 3 of the Constitution of the Democratic Party of Hawai'i, which states: "Every member of the Democratic Party of Hawaii shall support candidates who are members of the Party and request the Party's support in the general, special or nonpartisan elections."

The assertion that I voted for a non-Democrat is also false.

Bernie Sanders ran as a Democrat, was recognized as a Democratic Party nominee by the Democratic Party, was on Democratic Party primary ballots across the U.S., and during Bernie Sanders' presidential campaign he stated he was a Democrat: "I am proud of the fact that I am the longest serving Independent in the history of the United States Congress. That's what the people of Vermont voted for. I made a decision in this presidential election that I will run as a Democrat. I AM A DEMOCRAT NOW." Here is the transcript of Bernie's statement on This Week with George Stephanopoulos: This Week' Transcript: Donald Trump and Ben Carson - ABC News: <http://abcnews.go.com/Politics/week-transcript-donald-trump-ben-carson/story?id=35044135>

4) The fourth reason is that the candidate of the Democratic Party, Hillary R. Clinton, personally and through her agents, systematically violated the neutrality provisions of the Bylaws of the Democratic National Committee, thereby invalidating her right to demand loyalty from Democratic Party Electors. See DNC Charter Article 5, Section 4, which states, in part: “The Chairperson shall be responsible for ensuring that the national officers and staff of the Democratic National Committee maintain impartiality and even-handedness during the Democratic Party Presidential nominating process.” News reports have proven that the Hillary Clinton campaign, the DNC, and the corporate media colluded to rig the primary in favor of Hillary Clinton, essentially stealing the nomination from Bernie Sanders and his supporters. The fact of these violations is made clear in multiple news reports that show DNC Chair Debbie Wasserman Schultz and at least three high-ranking DNC officers resigning from their DNC positions shortly after this misconduct was disclosed. Unsurprisingly, all of these people very soon afterward were rewarded with positions in the Clinton presidential campaign. See, for example, Top Democratic National Committee Officials Resign In Wake Of Email Breach [https://www.washingtonpost.com/news/post-politics/wp/2016/08/02/democratic-national-committee-ceo-amy-dacey-resigns-in-wake-of-email-breach/?utm\\_term=.77994222cf0c](https://www.washingtonpost.com/news/post-politics/wp/2016/08/02/democratic-national-committee-ceo-amy-dacey-resigns-in-wake-of-email-breach/?utm_term=.77994222cf0c).

While Hillary Clinton struggled to stay ahead of Donald Trump in the polls, Bernie Sanders consistently maintained a double digit lead over Donald Trump in those same polls. Because the Hillary Clinton campaign, the DNC and the corporate media colluded to make Hillary the presidential nominee and therefore steal the nomination from Bernie Sanders and override the wishes of the majority of voters in the United States, the Democratic Party lost the presidential election. If the Clinton campaign and the DNC had not violated their own rules and stolen the nomination from Bernie Sanders, we would now have Bernie Sanders as our Democratic Party president. Because of Clinton and the DNC’s action we now have Fascist Donald Trump as president.

In summation because of Hillary Clinton's misconduct in stealing the nomination from Bernie Sanders, her terrible record as Secretary of State, the very uninspiring ideas she proposed as a candidate, her reliance on corporate money in her campaign, and the incompetent way in which her campaign was conducted, Hillary Clinton gave us Donald Trump as president.

If this were Major League Baseball, Hillary Clinton would be Pete Rose, and would have been barred for lifetime from the nomination.

Even to this day Bernie Sanders is still the most supported politician in the United States. See: Bernie Sanders Remains One Of America’s Most Popular Politicians [https://www.washingtonpost.com/news/politics/wp/2017/03/15/bernie-sanders-remains-one-of-americas-most-popular-politicians/?utm\\_term=.181ac385c2e4](https://www.washingtonpost.com/news/politics/wp/2017/03/15/bernie-sanders-remains-one-of-americas-most-popular-politicians/?utm_term=.181ac385c2e4)

Bernie Sanders Just Might Be The Most Popular Politician In America [https://www.washingtonpost.com/news/the-fix/wp/2016/09/19/the-most-popular-politician-in-america-might-just-be-a-socialist/?utm\\_term=.ec2922f94467](https://www.washingtonpost.com/news/the-fix/wp/2016/09/19/the-most-popular-politician-in-america-might-just-be-a-socialist/?utm_term=.ec2922f94467)



5) The assertion that I never planned to uphold the office I was elected to is absolutely false. This assertion is pure supposition and is without merit. There is no proof at all of this false accusation.

My decision to vote for Bernie Sanders came after Donald Trump had already won the presidency with 304 Electoral Votes. Trump only needed 270 Electoral Votes to win. At that point the election was effectively over and my voting for Hillary Clinton would not help her win the presidency nor prevent Trump from becoming president.

I did not decide to vote for Bernie Sanders until the ballot was placed in front of me. Since the election of Trump was already a done deal, and my voting for Hillary Clinton could not help her or hurt him, I decided to use my vote in a symbolic way. Millions of Bernie Sanders supporters across the United States had worked hard for a year to elect Bernie Sanders. Their opportunity to elect a president that truly represented them was stolen by the Clinton campaign and the DNC. So I figured that Bernie Sanders and his supporters earned at least one Electoral Vote.

Since my vote, I have literally been overwhelmed with thousands of thank-you emails and Facebook messages from Democrats across the nation. I only received one negative comment about my actions, and that was from Ms. Golojuch, who walked up and threatened me at the Electoral vote ceremony, saying she was going to get me for my vote.

I honestly voted as the Elector based on the popular understanding, and my understanding of the U.S. Constitution and as the Hawai'i State Deputy Attorney General had asserted that I had the right to vote my conscience. My vote was spontaneous, symbolic and without malice to anyone. It was never my intention to hurt the Democratic Party or to violate any rules.

6) Even if the Oahu County Committee (OCC) were to determine that I had violated some rule of the DPH, the requested discipline of expulsion is entirely disproportionate and inappropriate. Recently the OCC meted out "Censure" disciplinary actions against former Judge and party chair Walter Heen, former Governor Ben Cayetano, and current Honolulu City Councilmember Ann Kobayashi for their vigorous campaign against Democrat Kirk Caldwell for re-election as Mayor of Honolulu, and Mr. Caldwell nearly lost that campaign.

If Republican Charles Djou had won because of these prominent Democrats' support, we would now have a Republican Mayor of Honolulu who would be working in league with the Republican Party and the Trump administration to dismantle Democratic Party political gains and programs. This would have severely hurt the Democratic Party and Democratic Party members. Similarly, OCC meted out "censure" against Mr. Caldwell for hosting a very high-priced fundraiser for Republican City Councilmember Kymberly Marcos Pine, which resulted in chilling any serious challenge to her re-election. By contrast, my vote for Bernie Sanders caused no danger whatever to the electoral process, and recognized the person who should have won the Democratic nomination.

Accordingly, even if any discipline could legitimately be meted out against me, an idea with which I completely disagree, any such discipline should only be “Censure” as defined in the Bylaws of the Democratic Party of Hawai`i.

In summation, for all the reasons as stated above, this is a merit-less and unjustified complaint against me and should be dismissed.

Malama Pono