



BY EMAIL: JGOTestimony@capitol.hawaii.gov

Committee: Committee on Judiciary and Government Operations
Hearing Date/Time: Friday, March 6, 2008, 9:30 a.m.
Place: Room 016
Re: Testimony of the ACLU of Hawaii in Opposition to S.B. 846, Relating to Post Conviction Proceedings

Dear Chair Taniguchi and Members of the Committee on Judiciary and Government Operations:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in opposition to S.B. 846, which seeks to establish a time limitation for filing habeas corpus complaints and post-conviction judicial proceedings and limits successive complaints.

This bill puts insurmountable barriers in place for those inmates who have plainly meritorious claims and are seeking redress of fundamental rights. Over the past year, the media has exposed serious constitutional and other problems with Hawaii’s prisons — problems that resurfaced only a few years after the dissolution of the Spear Consent Decree. This bill seems to be a thinly-veiled attempt to block meritorious cases from court, all while the State remains under close scrutiny by the United States Department of Justice and others.

Hawaii law already provides the court with a remedy to declare an individual a vexatious litigant, *see* H.R.S. § 634J-7, and the judiciary is already equipped with ample tools to deal with these cases. For example, courts are permitted to dismiss *in forma pauperis* cases if they obviously lack an arguable basis in law or fact. In addition, prisoners who repeatedly abuse the judicial system can be ordered to cease their abuses, and the orders are enforceable with sanctions.

Finally, an individual should not be subject to special obstacles to the civil justice system based solely on his or her status as a detainee or an inmate without any showing of an attempt to abuse the judicial system.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its

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Hon. Sen. Taniguchi, Chair, JGO Committee
and Members Thereof
March 6, 2009
Page 2 of 2

services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years. Thank you for this opportunity to testify.

Sincerely,
Laurie A. Temple
Staff Attorney

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