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Lawsuit Seeking to Allow Former State Residents to Vote For President When They Move to U.S. Territories Dismissed by Federal Judge

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A federal district court in Hawaii has dismissed [Borja v. Nago](#), a lawsuit brought by individuals living in Guam and the U.S. Virgin Islands who are challenging overseas voting laws that would allow them to vote for President and have voting representation in Congress based on their prior residence in Hawaii if they lived anywhere else outside the fifty states, including the Northern Mariana Islands.

According to Equally American, which represents the plaintiffs in the case and is also an organizational plaintiff, while limitations on voter eligibility are typically subjected to strict scrutiny, the court held that such limitations when applied to overseas voting are only subject to rational basis review. As a result, the court ruled that Congress and state legislatures could

selectively withhold overseas voting rights from former state residents who move to certain disfavored territories while extending them to those who move to certain favored territories or foreign countries.

“When legislatures selectively exclude some people from being eligible to vote while including others who are similarly situated, that should be subject to the court’s highest level of judicial scrutiny,” said Neil Weare, President and Founder of Equally American. “It also defies reason to protect the right to vote for President for people who move from a state to the Northern Mariana Islands, but to deny that right to people who move to Guam, another U.S. territory that is less than 150 miles away. Where you live shouldn't affect your right to vote.”

Equally American said the plaintiffs are also represented by Guam attorney Vanessa Williams, Virgin Islands Attorney Pamela Colon, former Guam resident T.J. Quan, and a team of other pro bono attorneys.

The plaintiffs will decide whether to appeal the case to the Ninth Circuit Court of Appeals in the coming weeks, according to the release.

The court's ruling is available [here](#). Court filings and other background materials are available on the casepage [here](#).