

Arakaki v. Cayetano

Brought by 14 taxpayers.

Challenging the constitutionality of OHA and DHHL.

Judge Susan Oki Mollway ruled that they had standing, but only to challenge the expenditure of general fund revenues.

Plaintiffs withdrew their motion for a preliminary injunction.

State moved for bifurcation (hearing on Monday, August 19, 2002)

– first, status of Native Hawaiians as Native Americans

– then, if necessary, whether the state has a compelling interest to have separate and preferential programs for Native Hawaiians

Parties agreed on certain limited stipulated facts.

The Barrett and Carroll Cases

* They attack the validity of all the trusts and programs established for people of Hawaiian ancestry, including traditional and customary rights.

* John Carroll has challenged the constitutionality of Article XII, Sections 5 and 6 of the State Constitution as well as H.R.S. Chapter 10.

* Patrick Barrett filed a similar (but broader) challenge shortly after Carroll. He seeks an injunction preventing any “preferential treatment to any person or class of persons based upon Article XII of the Hawaii Constitution, the Hawaiian Homes Commission, the Office of Hawaiian Affairs, or Hawaiian gathering rights.”

CURRENT LITIGATION

Arakaki (Judge Gillmor / 9th Circuit) - OHA Trustees

Carroll (Judge Ezra / 9th Circuit)

Barrett (Judge Ezra / 9th Circuit)

Arakaki (Judge Mollway)

} Challenge OHA
& DHH

Kahawaiolaa v. Norton (Judge Gillmor) - Challenges

federal regulations that prohibit natives in
Hawaii from gaining federal status as an
"Indian tribe"

Threats to Kamehameha Schools & Other Aalii Trusts