

# **COURT CASES AFTER RICE**

**Philosophy: Americans for a Color Blind America**

**Relief:        Declare OHA and DHHL  
unconstitutional**

**Return all lands and monies to  
State for general use**

## ARAKAKI v. CAYETANO - 2002

**"Plaintiffs appear to misunderstand the scope of their taxpayer standing. *This court did not find that Plaintiffs may seek invalidation of the Hawaiian Homes and OHA laws in toto.* Plaintiffs only have standing to challenge the expenditure of state tax money on those programs."**

## **ARAKAKI v. CAYETANO - 2002**

**"To the extent that HHC , DHHL, and OHA programs rely on funds other than tax money, Plaintiffs do not have taxpayer standing to challenge those programs. To the extent that OHA receives rents from ceded lands and uses that money to fund programs for the benefit of Hawaiians and native Hawaiians, Plaintiffs do not have taxpayer standing to challenge the programs..."**

**ARAKAKI v. CAYETANO - 2002**

**FISCAL YEAR OHA GENERAL FUNDS**

**Administrative Expenses of \$2.5 million**

**\$333,512 to NHLC**                      **matched by OHA Trust  
Funds**

**\$298,000 to Alu Like**                      **matched by OHA Trust  
Funds**

**\$ 68,000 to Na Pua No'eau** **matched by OHA Trust  
Funds**

# Rice v. Cayetano (2000)

United States Supreme Court

The election of trustees of the Office of Hawaiian Affairs solely by persons of Hawaiian ancestry violates the Fifteenth Amendment of the U.S. Constitution.

“‘Racial discrimination’ is that which singles out ‘identifiable classes of persons...solely because of their ancestry or ethnic characteristics.’”

# Rice v. Cayetano (2000)

United States Supreme Court

“As the court of appeals did, we assume the validity of the underlying administrative structure and trusts, without intimating any opinion on that point.”

## **RICE V. CAYETANO - 2000**

**"It is a matter of some dispute . . . whether Congress may treat the native Hawaiians as it does the Indian tribes. We can stay far off that difficult terrain, however."**

**Compare Van Dyke, the *Political Status of the Hawaiian People*, 17 Yale L. & Pol'y Rev. 95 (1998) with Benjamin, *Equal Protection and the Special Relationship: The Case of Native Hawaiians*, 106 Yale L.J. 537 (1996).**

# **“RICE’S WIN WILL MEAN MORE SUITS”**

02/24/00 Honolulu Star-Bulletin

Rice’s attorney stated that “Hawaiians do not deserve sovereignty” and should be held to the U.S. Constitution like any other residents of the state.

He said potential new cases could include fighting anything from **Hawaiian homesteading** rights to **housing** grants to native gathering rights to **health** and **education** programs.



## **"KILLING ALOHA"**

***HONOLULU STAR BULLETIN, MAY 21, 2002 A5***

**Hawaii Attorney Paul Sullivan argues that the Akaka bill is "morally, politically and socially wrong" and allows "race and ancestry to be valid grounds for the permanent political and social *segregation* of American citizens . . .**

**By the law it divides forever not only the people of Hawaii but the people of the United States on the grounds which the U.S. Supreme Court has termed 'odious to a free people'."**

# What needs to happen next?

Congress Needs to Establish a  
Procedure for Formal Recognition  
of a Political Entity Representing  
the Native Hawaiian People.

# **ARAKAKI V. CAYETANO**

**Order of May 8, 2002**

**In footnote 20, page 32, "The court is well aware that legislation is pending before Congress that, if passed, may well affect any consideration of the merits. Congress might recognize Hawaiians and/or native Hawaiians as an 'Indian tribe.' Additionally, Congress might recognize OHA (or some entity not associated with the State) as the body governing that 'Indian tribe'."**

# **Hawai'i Legislature in 2000 and 2001**

**The Hawai'i State Senate and House of Representatives each passed resolutions in 2000 and 2001 supporting the recognition of an official political relationship between the United States government and the Native Hawaiian people, as well as the need to develop a government-to-government relationship between a Native Hawaiian nation and the United States. (*HCR 41, SR 45, HCR 23, AND SR 97*)**

## **AKAKA BILL S. 746 (H.R. 617)**

- Framework for Organizing “Native Hawaiian Governing Entity”
- Process for Federal Recognition of Native Hawaiian Entity
- Establishes U.S. Office of Native Hawaiian Relations
- Creation of Native Hawaiian Interagency Coordinating Group
- Reaffirmation of Shared Responsibility with State of Hawaii
- Anticipates Separate Land Claims and Restoration

# **Navajo-Hopi Land Dispute Settlement Act of 1996**

**\$50.2 million settlement**

**Up to 500,000 acres of land were taken  
into trust for the Hopi Tribe:**

- 200,000 acres under National Forest Service jurisdiction.**
- 165,000 acres of state lands**
- 165,000 acres of private holdings**
- 8,000 acres of public lands controlled by the U.S. Bureau of Land Management** *See Public Law 104-301, 25 USC 640d*

# **Catawba Indian Tribe of South Carolina Lands Claims Settlement Act of 1993**

**Congress expressed its intent “To remove the cloud on titles in the State of South Carolina resulting from the Tribe’s land claim.”**

**In 1993, the Catawba were awarded renewed federal recognition, 144,000 acres of land in New York county, and \$50 million.**  
*(Public Law 103-116,)*

# **Maine Indian Claims Settlement Agreement of 1980**

**A negotiated settlement of land, money and federal recognition between the State of Maine and the Passamaquoddy Tribe, Penobscot Indian Nation and the Houlton Band of Maliseets that was overseen by the federal government.**

**These Indian tribes received \$81.5 million, and provisions for the reacquisition of some of their lands.**





"HEY, MAKING THEM DEFINE HAWAIIAN GOVT. THEY  
LIKE SHOULD BUY US ANOTHER DECADE OR TWO..."