



Arakaki, et al vs. Cayetano, et al

Challenging the constitutionality of the Office of Hawaiian Affairs
and the Department of Hawaiian Home Lands

Who is part of the case?

Arakaki, et al

Plaintiffs:

- Earl F. Arakaki
- Evelyn C. Arakaki
- Edward U. Bugarin
- Sandra Puanani Burgess
- Patricia A. Carroll
- Robert M. Chapman
- Brian L. Clarke
- Michael Y. Garcia
- Roger Grantham
- Toby M. Kravet
- James I. Kuroiwa, Jr.
- Frances M. Nichols
- Donna Malia Scaff
- Jack H. Scaff
- Allen H. Teshima
- Thurston Twigg-Smith

Cayetano, et al

State Defendants:

- Benjamin J. Cayetano, in his official capacity as Governor of the State of Hawai'i
- Neal Miyahira, in his official capacity as Director of the Department of Budget and Finance
- Glenn Okimoto, in his official capacity as State Comptroller, and Director of the Department of Accounting and General Services
- Gilbert Coloma-Agaran, in his official capacity as Chairman of the Board of Land and Natural Resources
- James J. Nakatani, in his official capacity as Director of the Department of Agriculture
- Seiji F. Naya, in his official capacity as Director of the Department of Business, Economic Development and Tourism
- Brian Minaai, in his official capacity as Director of the Department of Transportation

OHA Defendants:

- Haunani Apoliona, OHA Chairwoman, and
- Rowena Akana
- Donald B. Cataluna
- Linda Dela Cruz
- Clayton Hee
- Colette Y.P. Machado
- Charles Ota
- Oswald Stender and
- John Waihe'e, in their official capacities as trustees of the Office of

Hawaiian Affairs

HHCA/DHHL Defendants:

- Raynard C. Soon, Chairman, and
- Wonda Mae Agpalsa
- Henry Cho
- Thomas P. Contrades
- Rockne C. Freitas
- Herring K. Kalua
- Milton Pa, and
- John A.H. Tomoso, in their official capacities as members of the Hawaiian Homes Commission

Defendants:

The United States of America, and John Does 1 through 10

Intervenor:

State Council of Hawaiian Homestead Association

Key Hearing Dates:

April 29: Motion to dismiss

July 24: Motion for Preliminary Injunction





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Challenging the constitutionality of the Office of Hawaiian Affairs
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What is *Arakaki vs. Cayetano*? It is asking the court to find and declare as follows:

- ❑ That the provisions of the Constitution of the State of Hawai'i creating the **Office of Hawaiian Affairs** and Chapter 10, Hawai'i Revised Statutes, are **unconstitutional** and invalid under the provisions of the Constitution of the United States of America.
- ❑ That the Hawaiian Homes Commission Act and the **Department of the Hawaiian Home Lands** are **unconstitutional** and invalid under the provisions of the Constitution of the United States of America.
- ❑ **That any moneys**, investments, lands and property of any kind, and all earnings thereon and growth thereon, held by OHA or DHHL **are state general funds and the property of the State of Hawai'i**.
- ❑ That **all such property is free of any trust** or other encumbrance, which restricts its use to the benefit of any racial classification or prevents its use for the benefit of all the people of the State of Hawai'i.
- ❑ That **all such property and funds be entrusted under the care and control of the Governor** to be used at the discretion of the State for purposes deemed appropriate and in compliance with the public land trust for all of the residents of the State.
- ❑ That the continued management, administration and enforcement of the **Homestead leases** by the

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DHHL is **an ongoing and continuing violation of the Constitution** of the United States of America, the United States Civil Rights Act and a breach of the State's fiduciary duty under state and federal law as trustees of the public land trust.

Also, *Arakaki vs. Cayetano* seeks an injunction that would find and mandate as follows:

- ❑ Order the DHHL and the State to negotiate with existing Homesteaders for the State's right to withdraw the lands demised in a manner that is fair to the Homesteaders but does not perpetuate or violate the rights of the plaintiffs.
- ❑ **Permanently preclude the DHHL from issuing any new Homestead leases**, make any further grants, loans, guarantees, transfers, contracts, expenditures or any further developments and actions implementing, enforcing or carrying out the HHCA.
- ❑ **Permanently preclude the OHA from making any further grants, loans, guarantees, transfers, contracts or expenditures** or further implementing, enforcing or carrying out laws related to the Office of Hawaiian Affairs.
- ❑ Order the **OHA to transfer all moneys**, investments, lands and property of any kind, and all earnings thereon and growth thereof **to the State of Hawai'i**.
- ❑ Order the **DHHL to transfer all moneys**, investments, lands and property of any kind, and all earnings thereon and growth thereof **to the State of Hawai'i**.

