

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

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FIRST CIRCUIT
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STATE OF HAWAII,

Plaintiff,

vs.

ANDREA L. JUNE,

Defendant.

CR NO. 19-1-0564

ORDER DENYING DEFENDANT'S
MOTION TO DISMISS ON THE
GROUNDS OF LACK OF JURISDICTION

**ORDER DENYING DEFENDANT'S MOTION TO DISMISS ON THE GROUNDS OF
LACK OF JURISDICTION**

On May 9, 2019, in the above entitled case, the Defendant, by and through Counsel, Poka Laenui aka Mr. Hayden F Burgess, Esq., filed a Motion to Dismiss on the Grounds of Lack of Jurisdiction. In fact, throughout this case, the Defendant has continuously asserted that the State lacks jurisdiction over her person because she is a citizen of the Kingdom of Hawaii and she has filed the following supportive documents:

1. On March 1, 2019, while in District Court, the Defendant filed an Exhibit (her handwriting on the Complaint) – “Corrections with Aloha”, asserting that she is a sovereign Hawaiian national; that the State is not lawful; and requesting that the State vacate and/or discharge this case;
2. On April 4, 2019, while in District Court, the Defendant filed an Exhibit, which contained a “Pledge and Oath of Allegiance to Homeland Kingdom;” that she was living lawfully and under the jurisdiction of the Kingdom of Hawaiian Islands, and that there was a lack of jurisdiction to prosecute subjects of the Hawaiian Kingdom under the Reciprocity Treaty of 1875;

3. On May 9, 2019, as an Exhibit to her Motion to Dismiss on the Grounds of Lack of Jurisdiction, the Defendant attached the Final Report, Hawaiian Sovereignty Advisory Commission, dated February 18, 1994;
4. On May 9, 2019, in Circuit Court, the Defendant filed a Declaration of Andrea L. June, wherein she asserted:
 - a) That she is a Hawaiian national and not a citizen of the United States of America;
 - b) That she was raised in the Ahupua'a of Waianae and continues to live there;
 - c) That the Hawaiian nation has been recognized as an independent nation;
 - d) That the Hawaiian nation continues to exist but is now under a state of occupation and colonialization by United States, constituting violations of free law, international common-law and international criminal acts of colonization as declared by the United Nations;
 - e) That she does not consent to the application of jurisdiction by the United States or any other subsidiary or institutions created from the government;
 - f) That this Government has no jurisdiction over her;
5. On May 9, 2019, the Defendant filed her Memorandum in Support of her Motion to Dismiss, wherein she again asserted
 - a) That she challenges the jurisdiction of the United States and Hawaii state laws over her for driving on Hawaii's roadways without a driver's license as she is a non-U.S. citizen;
 - b) That the Nation of Hawaii was never lawfully annexed as a territory; and
 - c) That her Hawaiian nationality cannot be arbitrarily taken from her nor American citizenship forced upon her;
6. On May 9, 2019, the Defendant filed an Exhibit, which was a Congressional Joint Resolution Offering an Apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii;
7. On May 9, 2019, the Defendant filed an Exhibit, which was President Cleveland's Message about Hawaii, dated December 18, 1893;
8. On May 9, 2019, the Defendant filed an Exhibit entitled, A Call for Review of the Historical Facts Surrounding UNGA Resolution 1469 of 1959 which Recognized Attainment of Self-Government for Hawaii; and

9. On July 29, 2019, the Defendant filed a Supplemental Memorandum in Support of Motion to Dismiss for Lack of Jurisdiction.

In essence, the Defendant is directly challenging the jurisdiction of this Court over the Defendant.

The State has responded to the Defendant's claims by filing their own Memoranda asserting proper jurisdiction by this Court.

1. On May 31, 2019, the State filed a Memorandum in Opposition to Defendant's Motion to Dismiss for Lack of Jurisdiction; and
2. On July 25, 2019, the State filed a Supplemental Memorandum to its Memorandum in Opposition to the Motion to Dismiss for Lack of Jurisdiction.

On July 29, 2019, the matter came for hearing before this Court. At that time, Counsel for the Defendant provided this Court with a very passionate and powerful historical overview of the overthrow of the Hawaiian Kingdom and its Monarchy, and the rationale and reasons why the injustice should not be perpetuated with the exercising of jurisdiction over this or any other citizen of the Kingdom by the State of Hawaii.

During the oral arguments on the Motion to Dismiss, a very brief discussion was had as to whether the Defendant had a possible State constitutional right of free travel from ahupua'a to ahupua'a, in the same manner that there is a State constitutional right to worship or to exercise other cultural Hawaiian activities¹, and whether the State had a legitimate right to limit those travel rights using the criminal charges here. See, Pele Defense Fund v Paty, 73 Haw 578, 616-

¹ Article 12, Section 7 of the Hawaii State Constitution reads: The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.

621 (1992)(Native Hawaiian rights are protected by Article 12, Section 7 of the Hawaii State Constitution); Public Access Shoreline Hawaii v Hawaii County Planning Commission, 79 Haw 425, 439 (1995); Ka Paakai O Ka Aina v Land Use Commission, 94 Haw 31, 45 (2000)(State has an “affirmative duty” to “protect these rights and to prevent any interference with the exercise of these rights”); Pele Defense Fund v Paty, supra (Native Hawaiian rights protected by Article 12, Section 7 may extend beyond the ahupua‘a in which a native Hawaiian resides). See also, Neves v. Ige, Civil No. 19-1-1134-07 GWBC (Temporary Restraining Order is proper where Governor’s Emergency Proclamation unduly interferes with a Native Hawaiian Kahu’s cultural right to worship on sacred Mauna Kea site).

After hearing the arguments presented by the parties, this Court took the matter under advisement.

Now, after considering the facts and circumstances of this case, and after considering the positions of the attorneys, and the case law binding upon this Court, the Court hereby Denies the Motion to Dismiss on Grounds of Lack of Jurisdiction.

In doing so, this Court follows the mandate and rulings of State v. Lee, 90 Haw. 130, 976 P.2d 444 (1999)(claim that the district court lacked jurisdiction over defendant because he is a subject of the Sovereign Nation of Hawai‘i is without merit); United States v. Lorenzo, 995 F.2d 1448 (9th Cir. 1993)(argument, that defendant is not a citizen of the United States, but of “the Nation of Hawaii” and that the United States therefore has no jurisdiction over him, is frivolous).

Finally, in State v Kaulia, 128 Haw. 479 (2013), the Hawaii Supreme Court reaffirmed State v Fergerstrom, 106 Haw 43 (Haw.App. 2004), and held that whatever may be said regarding the lawfulness of the overthrow, the State of Hawaii is now a lawful government and

persons claiming to be citizens of the Kingdom and not of the State are not exempt from the laws of the State applicable to all persons (citizens and noncitizens).

Therefore, for the above reasons, the Defendant's Motion to Dismiss on Grounds of Lack of Jurisdiction is Denied.

IT IS SO ORDERED.

DATED: HONOLULU, HAWAII: _____.

AUG 30 2019

A handwritten signature in black ink, appearing to read 'Edward H. Kubo, Jr.', written over a horizontal line.

EDWARD H. KUBO, JR.
Judge of the Above Entitled Court