

IN THE CIRCUIT COURT OF THE 1ST CIRCUIT

STATE OF HAWAI`I

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FIRST CIRCUIT
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STATE OF HAWAI`I)
)
 Vs)
)
 ANDREA L. JUNE,)
)
 Defendant.)
 _____)

Case No. 1CPC-19-0000564

Memorandum in Support of Motion

Is there a legitimate basis for jurisdiction of U.S. or Hawai`i State laws over defendant, a citizen of the Nation of Hawai`i, and not a citizen of the United States of America? Having raised the question, the burden of proof lies on the government which asserts jurisdiction rather than the individual challenging the application of jurisdiction.

Statement of the Case

Andrea L. June, the Defendant, challenges the jurisdictional extension of the U.S. and Hawaii State laws over herself, a non-U.S. citizen for driving on Hawaii’s roadways without a driver’ license

The Nation of Hawai`i was never lawfully annexed as a territory or incorporated as a State of the United States of America. Andrea’s Hawaiian nationality cannot be arbitrarily taken from her nor an American citizenship foisted upon her. Universal Declaration of Human Rights, Article 15 (2); Therefore, the State of Hawaii has neither personal nor territorial jurisdiction over this case.

Statement of Facts Relevant to Issues

1. Andrea has met all the requirements of a Hawaiian national and asserts her allegiance to the Hawaiian nation. (See Defendant’s declaration.)

2. The United States and Hawai`i engaged in various treaties and agreements and each had recognized the other as sovereign independent nations. (Public Law 103-150, Nov. 23, 1993, hereafter Apology Resolution; President Cleveland’s Message to Congress, Dec. 18, 1893, hereafter Cleveland’s Message; Hawaiian Sovereignty Advisory Commission Final Report created thru Hawaii Legislative act , hereafter HSAC Final Report; Preliminary Report of the

Sovereignty Advisory Council, State of Hawai`i to the 16th Legislature, hereafter SAC Report; Act 359, Hawai`i State Legislature 1993, hereafter Act 359 SLH 1993;

3. On January 16, 1893, in pursuance of the conspiracy to overthrow the Government of Hawai`i, the United States Minister caused U.S. naval forces to invade Hawai`i. The invasion by U.S. forces constituted an act of war, an aggressive act as defined by the U.N.'s Definition on Aggression, UN GA Resolution 3314 (XXIX), and by such an act, the government of a peaceful and friendly people was overthrown. Cleveland's Message; Apology Resolution; HSAC Final Report; SAC Report;

4. A provisional government was formed for the explicit purpose of annexing Hawai`i to the United States. That attempt failed by the Presidential intervention of Grover Cleveland by his message to Congress. The provisional government converted itself into the Republic of Hawai`i. The Republic of Hawai`i was illegitimate and not the representative voice of the Hawaiian people. It instead, suppressed the voices of the people and proceeded on its project of annexation. Cleveland's Message; Apology Resolution; HSAC Report; SAC Report; Act 359 SLH 1993;

5. Hawaii's people had a history of democratic participation in government, were accustomed to participate in the Constitutional forms of Government, in the election of Legislatures, in the administration of justice through regularly constituted magistrates, courts and juries, and in the representative administration of public affairs, in which the principle of government by majorities had been acknowledged and firmly established. The consent of the people of the Hawaiian Islands had never been asked by nor accorded to the people of the Hawai`i by the Republic of Hawaii or the United States of America. Annexation into the U.S. was subversive of the personal and political rights of the Hawaiian people and Nation and constituted a negation of the rights and principles proclaimed in the Declaration of American Independence, and in the schemes of government of all other civilized and representative Governments. Their success was with the active support of the United States of America. Cleveland's Message; HSAC Report; SAC Report; Act 359, SLH 1993

6. The U.S. Senate never obtained the constitutionally required 2/3rds vote of U.S. Senators present in order to ratify the treaty of annexation. U.S. Constitution Article 2, Section 2

To skirt that Constitutional requirement, a joint resolution of Congress, the Newland Resolution, was adopted. The Constitution provides no such form of treaty ratification. Apology Resolution; HSAC Report; SAC Report; Act 359, SLH 1993

7. The Hawaiian nationals never relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchial form of government or through a plebiscite or referendum. Apology Resolution; HSAC Report; SAC Report; Act 359 SLH 1993,

8. The U.S. Congress proceeded to establish a colonial government in Hawai`i. It established the Territory of Hawai`i and set up a governmental form in which the U.S. President appointed Sanford B. Dole, the same man who acted as President of the Provisional Government and the Republic of Hawai`i, as Governor of the Territory of Hawai`i. A long period of colonization followed in which a program of resocialization, economic dependence, military occupation, education takeover, control over the judicial system, control over the media, attack upon the indigenous language and culture, and a denial of the continued existence of Hawaiian nationality took place. SAC Report; HSAC Final Report

9. The Hawaiian people have maintained a continued resistance to the exercise of U.S. jurisdiction over them or their national territory since the invasion in 1893. They have maintained their national consciousness as Hawaiian nationals, and the continued existence of their nation, distinct and apart from the United States of America. Their cry for independence from the United States of America has never been extinguished over the 126 years since the 1893 U.S. aggression. It is retained in songs, chants, names, dances, and writings. HSAC Report; Hawaiian Sovereignty Elections Council Final Report - hereafter HSEC Report; SAC Report ; Act 359, SLH 1993; Mele `ai Pohaku aka Kaulana Na Pua, Nā Mele o Hawai`i Nei (101 Hawaiian Songs) by Elbert & Mahoe (1970) UH Press; Newspaper articles & general news reports in Hawaii over the last 50 years.

10. In 1959, and following years of transmigration of American citizens into Hawai`i, many from the U.S. military, the United States allowed only American citizens residing in Hawai`i for a minimum of 1 year to participate in a vote for Statehood. The Hawaiian nationals were not allowed to participate. The U.S. government presented only one choice in the

plebiscite, integration within the United States, either as a State or a territory of the United States. The choice of independence or free association with the United States was not offered. The action taken in 1959 was in contravention of the principles of the United Nation's Charter as well as its resolutions on decolonization and human rights. The Politics of Forgetting & Remembering by Pōkā Laenui, January 14, 1998 published in the Honolulu Weekly, January 1998 republished as Hawaiian Statehood Revisited, Chapter 3, Reclaiming Indigenous Voice and Vision, Edited by Marie Battiste UBC Press, 2000; HSAC Report; U.N. Charter, Article 73; U.N. GA Resolutions 66, 1514, 1541; A Call for Review of the Historical Facts Surrounding UNGA Resolution 1469 (xiv) of 1959 which Recognized Attainment of Self-Government for Hawaii, www.hawaiianperspectives.org/documents/United Nations, also published by Transcend Media Service at <https://www.transcend.org/tms/2018/12/a-call-for-review-of-the-historical-facts-surrounding-unga-resolution-that-recognized-attainment-of-self-government-for-hawaii/>

11. The U.S. Congress acknowledged the historical significance of the events which have taken place in Hawai`i resulting in the suppression of the inherent sovereignty of the Native Hawaiian people, recognized and commended efforts of reconciliation, apologized to Native Hawaiians for the overthrow of the Kingdom of Hawai`i and the deprivation of the rights of Native Hawaiians to self-determination, committed to acknowledging the ramifications of the overthrow of the Hawaiian Kingdom in order to provide a proper foundation for reconciliation between the U.S. and the Native Hawaiian people, and urged the U.S. President to also acknowledge the same ramifications and to support reconciliation. Apology Resolution

12. The State of Hawai`i also acknowledged the need for reconciliation based upon the facts reflecting the illegalities which have taken place in Hawai`i. Act 359, SLH 1993, Act 200, Session Laws of Hawai`i, 1994

Summary of the Arguments

There is no instance throughout the relationship between Hawai`i and the United States of America which justifies or legitimizes the acquisition by the U.S. of Hawai`i, either as a territory or as a State of its union. Nor is there any instance by which Andrea L. June legitimately lost her Hawaiian nationality or undertook U.S. citizenship. That being the case, the

laws of the United States have no territorial or personal jurisdiction over a Hawaiian national whose residence and activities are limited within Hawai`i.

Argument

The facts of this case with respect to Hawai`i's history, the U.S. invasion into Hawai`i, and the steps taken to claim Hawai`i as a territory and State of the United States are all unchallenged, indeed supported by the U.S. and State of Hawai`i government's publications and acts. This case, therefore, is not one of factual determination. Based upon the uncontested facts, the only question before this court is the appropriate application of legal principles. Here are eight fundamental principles which leads to the conclusion that the State of Hawai`i has no personal or territorial jurisdiction over the Defendant.

A. The Constitution of the United States is the supreme law of the United States and to the extent actions taken by entities of the U.S. government and the U.S. laws contradicts or violates the constitution, such acts are illegal, and laws are unconstitutional and unenforceable. U.S. Constitution, Art. VI

B. International law applicable to and binding upon the United States of America are a part of the supreme law of the land and to the extent any internal law contradicts or violates such international laws, the internal laws are unconstitutional and unenforceable. U.S. Constitution, Art. VI; The Paquete Habana; the Lola, 175 U.S. Reports 677 (1900)

C. The United States of America and all its branches of government must conduct its international affairs in accordance with international law. 1 M. Whiteman, Digest of International Law 1 (1963); U.S. Constitution, Art. VI

D. A state in international law or individuals acting as agents of the state may not excuse themselves for violations of international law on the basis that its municipal or internal constitution or laws permitted such violations. Werner Levi, Contemporary International Law, A Concise Introduction, Westview Press, 1979 at p. 25; Declaration of Rights and Duties of States, adopted by the International Law Commission, 1949, Art. 13; The Judgment at Nuremberg, 1 International Military Tribunal, Trial of the Major War Criminals 171 (1947) hereafter Nuremberg

E. The activities and transactions engaged in by the United States of America in its dealings with and with regards to Hawai`i was not in accordance with international law. Nuremberg; American Annexation of Hawai`i: An example of the Unequal Treaty Doctrine by

Professor Bradford W. Morse and Kazi A. Hamid, PhD, Connecticut Journal of International Law Vol. 5, No. 2, Spring 1990; Cleveland's Message; Apology Resolution;

F. A treaty of Annexation must be entered into between proper parties, without coercion, and consistent with the internal rules of both state parties. Vienna Convention on the Law of Treaties, May 22, 1969 at Articles 51, 52, 53;

G. The internal laws of a state do not have extra-territorial jurisdiction unless the person over which jurisdiction is sought is a citizen or national (personal jurisdiction) of such state or the activity alleged to have been committed has special significance to the state (subject-matter jurisdiction). Werner Levi, Contemporary International Law, A Concise Introduction, Westview Press, 1979 at p. 116;

H. The entry of Hawai'i into the union of States of the United States by U.S. domestic law does not obviate the illegalities of annexation of the territory and the declaration of Hawaiians as U.S. citizens. Definition of Aggression; Article 73, Charter of the United Nations; U.N. General Assembly Resolutions 66 (1946), 1514 (1960), 1541 (1960).

Neither the U.S. government nor the State of Hawai'i has authority or jurisdiction to impress a law upon non-nationals or non-citizens who maintain neither domicile nor residence within the territory of the United States. Restatement (third) of the Law, The Foreign Relations Law of the United States, §§411, 412, As Adopted and Promulgated by The American Law Institute, May 14, 1986 §411.

Proof of jurisdiction, when challenged, becomes the obligation of the party asserting such jurisdiction, to prove that it exists. Jurisdiction should not be something assumed, taken by default, or undertaken because of custom. If there exist no certain basis upon which jurisdiction can be supported, going forward in applying it simply invites the practice of power and not law, obedience to which is founded not upon ethics and good conscience but merely upon imposing on the victim fear and a hope to avoid such brute power, including imprisonment.

Andrea L. June presents to this court that fundamental challenge of jurisdiction to extend U.S. and Hawaii State laws over herself, a Hawaiian national for her conduct within the territory of her sovereign nation, Hawai'i.

There has been no act committed which constitute the legitimate loss of her Hawaiian nationality. The Government can neither assert nor present any evidence to the contrary. One

can not be arbitrarily deprived of one's nationality. Article 15, Universal Declaration of Human Rights Adopted by the UN December 10, 1948 with US voting in favor. (hereafter Universal Declaration of Human Rights)

The early history between Hawaii and the United States is a history of mutual recognition of the independence of one another. If there is U.S. jurisdiction over Hawai'i and Hawaiian nationals today, there must be a trail of legitimacy bringing Hawai'i into the fold of the U.S. union. There is none. There are instead, violations of international, Hawaiian, and U.S. laws which obviate the inclusion of Hawai'i.

What are the laws with which we should investigate that trail? There are three - international, Hawaiian, and U.S. laws. Of these, I need only concentrate on two, international law and U.S. law which will show no proper jurisdiction.

I will not recite the historical record here, instead incorporating the factual statements recited in Cleveland's Address, in the Apology Resolution, the reports of SAC and HSAC, and Act 359, SLH 1993 as well as other historical and contemporary records which this court can take judicial notice of. The United States violated international law through its aggression against Hawai'i in 1893. Cleveland's Message, at. p. 28. It was a direct breach of the treaty between the United States and Hawai'i. Treaty of Friendship, Commerce, Navigation and Extradition (hereafter FCNE Treaty) ratified August 24, 1850 No territorial acquisition or special advantage resulting from such aggression should be recognized as lawful. Definition of Aggression.

It has been suggested that the United States is above international law and that the courts of the United States are to simply carry out the internal laws of the U.S. government without regards to international law. We come face to face with fundamental issues of international and domestic legal principles:

A. Is the U.S. obligated to conduct itself in international affairs in accordance with international law? Yes.

The U.S. Constitution has incorporated treaties of the United States of America with other states as "the supreme Law of the Land; and the Judges of every State shall be bound thereby." U.S. Constitution, Art. VI. The U.S. Constitution explicitly recognizes the validity of

international law when it conferred to Congress the right to define and duty to punish offenses against the law of nations. U.S. Constitution, Art. I, §8 Piracies & felonies. The United States Supreme Court has already stated that it must take judicial notice of international customary law. The Paquete Habana; the Lola, 175 U.S. Reports 677 (1900)

While international law may differ from municipal, internal or domestic laws in that internal laws have a system of enforcement while the enforcement of international law is uncertain at best, the fact that a law is unenforceable is irrelevant. Rather, the fact that it is law demands its obedience, whether enforceable by arms or by moral conscience. See Fitzmaurice, "The Foundations of the authority of International Law and the Problem of Enforcement," 19 *Modern L. Rev.* 1, 1-2, 8-9 (1956); International Law and World Order, Weston, Falk and D'Amato, West Publishing Co., 1980 p. 116 et seq. Werner Levi, Contemporary International Law: A Concise Introduction, Westview Press, Colorado, 1979 at p. 25; Article 13, Declaration of Rights and Duties of States adopted by the International Law Commission 1949; Judgment at Nuremberg,

Grover Cleveland, in his message to the joint houses of the U.S. Congress, declared that:

The considerations that international law is without a court for its enforcement, and that obedience to its commands practically depends upon good faith, instead of upon the mandate of a superior tribunal, only give additional sanction to the law itself and brand any deliberate infraction of it not merely as a wrong but as a disgrace.

The U.S. Constitution itself requires courts to view treaties as part of the supreme law of the land (Article VI). Furthermore, **it is a fundamental doctrine of international law that a state may not excuse itself for violations of international law on the basis that its municipal constitution or laws permitted violations of such international laws.** Werner Levi, Contemporary International Law: A Concise Introduction, Westview Press, Colorado, 1979 at p. 25; Article 13, Declaration of Rights and Duties of States adopted by the International Law Commission 1949; Judgment at Nuremberg,

Thus, a court is obligated to look beyond the mere legislative pronouncements of the Congress and hold up these transactions against the backdrop of international law and the Constitution of the United States.

B. Were the transactions engaged in by the U.S. in its dealings with Hawai`i in accordance with international law? No.

The U.S. violated international law in its pattern of conduct attempting to annex Hawai`i to the U.S. To begin, the United States had formally recognized Hawai`i as an international personality, recognizing the Nation of Hawai`i as a sovereign, independent state. Treaty of Commerce, December 24, 1826; Treaty of Friendship, Commerce and Navigation, August 24, 1850, Rights of Neutrals at Sea, March 26, 1855; Treaty of Commercial Reciprocity, September 9, 1876; Treaty of Commercial Reciprocity, November 9, 1887, Treaties and Other International Agreements of the United States of America, V. 8

The treaty of Friendship, Commerce, and Navigation and Extradition (hereafter FCNE) proclaimed Nov. 9, 1850, declared, "There shall be perpetual peace and amity between the United States and the King of the Hawaiian Islands, his heirs and his successors." Art. 1, p. 908 Treaties, Conventions, International Acts, Protocols and Agreements between the United States of America and Other Powers 1776 - 1909, William M. Malloy, Vol. 1, Washington, Government Printing Office, 1910. The U.S. violated this treaty time and again. The HSAC Final Report sets out the events in detail and due to space consideration, this memorandum will simply incorporate that report, along with the Cleveland Address to Congress and the Apology Resolution.

Every one of these acts taking Hawaii as part of the U.S. was in violation of international law, both as a matter of customary international law¹ as well as the FCNE treaty. They were also in contradiction to the much earlier declaration of the President to the U.S. Congress on

¹Acts of aggression constitutes international crimes against the human species. Unanimous resolution of 18 February 1928 of 21 American republics at the Sixth (Havana) Pan-American Conference. International Law & World Order, at p. 155; By 1893, acts of aggression were already contrary to international law in the Americas and in the South Pacific., p. 246-247.

December 31, 1842, recognizing Hawai'i's independence and pledging never to take possession of Hawai'i.²

In Article 6(a) of the Nuremberg Charter, we find

“Crimes Against Peace: namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing.”³

The United Nations' General Assembly at its first session in 1946 recognized the principles set out in the Nuremberg Charter.⁴

The United States committed crimes against peace under the law of nations by planning and implementing the use of force to overthrow the Hawaiian monarch without any provocation by her official representatives. United States President Grover Cleveland in addressing the joint houses of Congress on December 18, 1893, stated it accurately when he said, "a candid and thorough examination of the facts will force the conviction that the Provisional Government owes its existence to an armed invasion by the United States." The United States Congress, in its apology bill signed by President William Clinton on November 23, 1993, was equally explicit when it stated:

“Whereas, on January 14, 1893, John L. Stevens (hereafter referred to in this Resolution as the "United States Minister"), the United States Minister assigned to the sovereign and independent Kingdom of Hawai'i conspired with a small group of non-Hawaiian residents of the Kingdom of Hawai'i, including citizens of the United States, to overthrow the indigenous and lawful Government of Hawai'i;

“Whereas, in pursuance of the conspiracy to overthrow the Government of Hawai'i, the United States Minister and the naval representatives of the United States caused armed naval forces of the United States to invade the sovereign Hawaiian nation on January 16,

²Dispatch from Pageot, French representative in Washington, to Guizot, French minister of Foreign Affairs, No. 55, June 11, 1844, AMAE (Paris), Etats Unis, Vol. C.

³Judicial Decisions, International Military Tribunal (Nuremberg). Judgment and Sentences, 41 American Journal of International Law 174 (1947).

⁴U.N. General Assembly Resolution 95(1), U.N. Doc. A/6. at 188 (1946).

1893, and to position themselves near the Hawaiian Government buildings and the `Iolani Palace to intimidate Queen Lili`uokalani and her Government.”

Thus, the U.S. action in Hawai`i resulting in the overthrow of the Hawaiian monarchy, the establishment of the Provisional Government and the subsequent change of name to the Republic of Hawai`i were all part of the scheme to extinguish the life of an independent, peaceful, trusting and sovereign state and integrate its territory and citizens into the United States of America.

These chains of events propelled by agents of the United States government all constituted numerous breaches of international law. The fact that the U.S. Congress in 1898 via the Newland Resolution⁵ and 1900 via the Organic Act⁶ took a hand in these transactions, attempting to obviate the trail of deceit, thievery and lawlessness does not overcome the fact of U.S. delinquency measured against the laws of nations.

C. Is the treaty of annexation valid? No. The Republic of Hawai`i was not a party which had capacity to engage in such a treaty. The fraud of the Republic of Hawai`i as representative of the people of Hawai`i, or of the proper recipient of transfer of sovereignty from the Hawaiian nation, was manifest. In Hawai`i, no one (outside of the Constitutional Convention which cooked up this Constitution for the Republic of Hawai`i) was permitted to vote for or against the constitution. The members of the convention were appointed by Sanford Dole (19 consisting of himself and eighteen others) or elected by the "qualified" voters (18). To qualify to vote, one needed to disavow any loyalty to Queen Lili`uokalani and pledge his support to the Provisional Government. There was absolutely no semblance of the Republic of Hawai`i being representative of the people, for the people or by the people of Hawai`i.⁷ It was merely a self-declared government.⁸

⁵30 Stat. 750; 2 Supp. R.S. 895.

⁶Organic Act of April 30, 1900 Act 339, 31 Stat 141).

⁷Gavan Daws, Shoal of Time A History of the Hawaiian Islands, UH Press, (1968) at pp. 280 - 281.

⁸See Apology Resolution,

The United States presence in Hawai`i was plainly visible throughout the day of the ceremony, July 4, 1894, declaring the Republic of Hawai`i into existence. It was obvious that the Republic of Hawai`i was not representative of the will of the people but instead the instrument of supremacists led by a handful of Anglo Saxons. To have entered into a treaty with such a government was not mere error. It was fraudulent on the part of both parties, the representatives of the United States of America and the hooligans who called themselves the Republic of Hawai`i. It was a fraud against the international community as well as the citizens and residents of the Nation of Hawai`i. It was a repudiation and insult to the principle of self-determination which the forefathers of the United States of America took such great pains in establishing as a preemptory norm of international law when they wrote: **“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, *deriving their just powers from the consent of the governed.*”**⁹ (Emphasis added)

The principle contained in the American declaration is also contained in the various documents of the United Nations extolling the right to self-determination. The Universal Declaration of Human Rights declares in part: **“The will of the people shall be the basis of the authority of government;”**¹⁰

The Hawai`i - U.S. annexation treaty itself is void, for it conflicted with a preemptory norm of general international law, that is, a treaty can only be signed by proper parties.

The treaty is doubly void because not only was the Republic of Hawai`i an illegitimate government, but it gained its position and power through the direct instigation of the United States of America. Both the Republic of Hawai`i and the United States of America were

⁹ The Declaration of Independence In Congress, July 4, 1776.

¹⁰U.N. General Assembly Resolution 217 (III) of 10 December 1948, Article 21(3).

operating with unclean hands! Both were working hand in hand with each other to steal the Nation of Hawai`i from the people of Hawai`i. They passed papers between themselves in a self-promotional campaign, knowing full well that there was no substance to the documents called the Constitution of the Republic of Hawai`i, the Treaty of Annexation, or the Joint Resolution of Congress. A government de facto does not become a government de jure when working with an international co-delinquent to effectuate the termination of the life of a nation. The appropriate term for such transactions is thievery, an indictment upon the governments and the men who participate in the execution of the relevant acts. The international response to this thievery is the disdain by peoples and nations throughout the world societies to the succeeding government which pretends authority over the victimized people, territory and nation.

This so-called treaty of annexation is therefore void *ab initio*. The provisions of a void treaty have no legal force upon the citizens of the Nation of Hawai`i.

D. Does the Newland's Resolution containing the treaty of annexation measure up to the U.S. Constitutional requirement? No!

Article II, §2 of that fundamental document requires all treaties to be ratified by two-thirds of those present in the U.S. Senate. It made no exception!¹¹ The Newland's Resolution never received the requisite vote of the U.S. Senate. It failed to pass the requirement of the Constitution.

Therefore, the annexation of Hawai`i through the Newland's Resolution can not have been under the treaty consent powers of the United States Senate. If it is to pass U.S. constitutional muster, the resolution will have to be constitutionally justified in some other way. What provision of the U.S. Constitution has the Congress been granted the power to annex the territory of an independent nation-state to the United States of America as a territory of the United States? There is no such constitutional provision.

The opinion of the Office of Legal Counsel, U.S. Department of Justice, 12 U.S. Op. Off. Legal Counsel, 238, beginning at p. 251 addresses this matter

¹¹ Apology Resolution,

The United States also annexed Hawaii by joint resolution in 1898. Joint res. 55, 30 Stat. 750 (1898). Again, the Senate had already rejected an annexation treaty, this one negotiated by President McKinley with Hawaii. And again, Congress then considered a measure to annex the land by joint resolution. Indeed, Congress acted in explicit reliance on the procedure followed for the acquisition of Texas. As the Senate Foreign Relations Committee report pronounced, “[t]he joint resolution for the annexation of Hawaii to the United States . . . brings that subject within reach of the legislative power of Congress under the precedent that was established in the annexation of Texas.” S. Rep. No. 681, 55th Cong., 2d Sess. 1 (1898). This argument, however, neglected one significant nuance: Hawaii was not being acquired as a state. Because the joint resolution annexing Texas relied on Congress’ power to admit new states, “the method of annexing Texas did not constitute a proper precedent for the annexation of a land and people to be retained as a possession or in a territorial condition.” Andrew C. McLaughlin, *A Constitutional History of the United States* 504 (1936). Opponents of the joint resolution stressed this distinction. See, e.g., 31 Cong. Rec. 5975 (1898) (statement of Rep. Ball). [FN30]

Moreover, as one constitutional scholar wrote:

The constitutionality of the annexation of Hawaii, by a simple legislative act, was strenuously contested at the time both in Congress and by the press. The right to annex by treaty was not denied, but it was denied that this might be done by a simple legislative act. . . . Only by means of treaties, it was asserted, can the relations between States be governed, for a legislative act is necessarily without extraterritorial force — confined in its operation to the territory of the State by whose legislature it is enacted. 1 Westel Woodbury Willoughby, The Constitutional Law of the United States §239, at 427 (2d ed. 1929)

Notwithstanding these constitutional objections, Congress approved the joint resolution and President McKinley signed the measure in 1893. Nevertheless, whether this action demonstrates the constitutional power of Congress to acquire territory is certainly questionable. The stated justification for the joint resolution — the previous acquisition of Texas — simply ignores the reliance the 1845 Congress placed on its power to admit new states. It is therefore unclear which constitutional power Congress exercised when it acquired Hawaii by joint resolution.

The U.S. Department of Justice’ opinion continues, “**We believe that the only clear congressional power to acquire territory derives from the constitutional power of Congress to admit new states into the union.**” Emphasis added.

If the Justice Department's opinion is correct, did Congress legislate beyond its powers granted by the Constitution? If it did, its act is unconstitutional and therefore void. If it did not, what was the Constitutional power given for it to have adopted such legislation?

E. Do the internal laws of the United States of America have extra-territorial jurisdiction over Andrea L. June? No.

The primary restriction imposed by international law upon states is that they may not exercise powers in any form in the territory of another state except by virtue of permission derived from custom or treaty.¹² In Schooner Exchange v. M'Faddon, 11 U.S. 116, 135 (1812), Chief Justice Marshall asserted "the jurisdiction of the nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself."

The laws of the United States of America, therefore, have no extra-territorial jurisdiction beyond its national borders, unless permitted by customary or treaty law. There is no customary law which permits the prohibition of driving in a non-U.S. territory of a non-U.S. national or citizen.

F. Does the entry of Hawai'i into the union of States of the United States obviate the illegalities of annexation of the territory and the declaration of Hawaiians as U.S. citizens? No.

The United States' taking Hawai'i into its union of States does not moot the issue raised here. First, to do so would ignore the principle of the "fruit of the poisonous tree". Second, it would violate the principle of not rewarding a State for its aggressive action against another, resulting in the annexation of the invaded victim's territory. Third, a colonial annexation of a territory must meet the strict requirements of international law, in this specific case, the principles established by the United Nations Charter (Article 73), General Assembly Resolutions 66, 1514, and 1541. Fourth, the "Statehood Vote" for Hawai'i was a farce and did not meet the international obligations of the United States under the Charter of the United Nations,

¹²The Case of the S.S. 'Lotus', (France v. Turkey), Permanent Court of International Justice, [1927] P.C.I.J., ser. A, No. 10

incorporated as part of the law of the United States through Article IV of the U.S. Constitution, as well as UN General Assembly Resolutions 66 (I), 1514 and 1541, the Universal Declaration of Human Rights, the Definition of Aggression, A Call for Review of the Historical Facts Surrounding UNGA Resolution 1469 (xiv) of 1959 infra.

The conspiracy between the U.S. Minister Plenipotentiary and the Committee for Public Safety, the sneak attack by U.S. military upon the shores of Hawai`i, the formation of a Provisional Government submitting Hawai`i for annexation to the United States, the formation of a Republic of Hawai`i out of the Provisional Government, and the re-submission of annexation of Hawai`i by the United States, followed by the appointment by the U.S. President of the man who was at the helm on the Hawai`i side, of this give-away of Hawai`i, Sanford Dole, as the Governor of the Territory of Hawai`i - these steps reflect a long period of planning and execution, requiring the participation of many people at various levels of government, evidencing a greed in the character of an American bureaucracy separated from its founding principles. Every year since that American invasion, the U.S. has continually failed to take the steps necessary to correct this injustice, instead, finding ways to dig itself deeper into possession of Hawai`i. It is the ethical responsibility of lawyers and judges to do what is honest.

There is no international legal principle upon which the United States can legitimize its invasion of Hawai`i. And it was upon this invasion that the United States was able to advance its stronghold into Hawai`i, in violation of the UN Resolution on the Definition of Aggression.

The U.S. Congress has, through its confession of U.S. wrongdoing and apology to the native Hawaiians, recited, **“Whereas, the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum . . .”** The Congress acknowledged the significance of the “illegal overthrow of the Kingdom of Hawai`i” (using the Congress’ words) and expressed a commitment to acknowledge the ramifications of the overthrow “in order to provide a proper foundation for reconciliation between the United States and the Native Hawaiian people. . . .”

Conclusion

Jurisdiction must be shown to exist by the claimant of jurisdiction. When challenged, it cannot be merely assumed.

Defendant claims the State has neither personal nor territorial jurisdiction in this case.

The charge of driving without a driver's license is a domestic law within the U.S. through the State of Hawai'i. How can the domestic law of the U.S. apply over Defendant who is not a U.S. citizen and who acted solely within the territory of the Hawaiian nation?

The application of U.S. domestic laws in Hawai'i follows a line of violations of the U.S. Constitution, international law, treaty law and customary law. By the proper application of such laws, the domestic laws of the U.S. and its subsidiary, the State of Hawaii, has no jurisdiction of Andrea L. June or over this territory of Hawaii.

All that is left for one intent on concluding that jurisdiction exist is to throw one's hands up and proclaim either 1) the passage of time has overcome all illegalities, or 2) to grasp into some dark historical corner of American experience and generalize a comparison of Hawaiians and native American Indians as basis for jurisdiction. Such a practice is a comment on the intellectual and moral character of those in decision making power. It is wrong. It is lazy. It is a poor foundation upon which a government should attempt to rule.

Each person who acts to support these violations of international law, regardless of their justification for such acts under the domestic laws of the United States or of the State of Hawai'i, are themselves participating in these long train of illegalities. The Nuremberg Principles apply equally here as it does in any battle fields in Viet Nam, Iraq, Korea, or in any of the theaters of war in the 2nd World War, or among the officers of the 3rd Reich under Adolf Hitler during WWII. Dressing oneself in a judge's black cloak or clothing oneself under the title of "Prosecuting Attorney" or sitting within a Jury Box are not adequate to immunize oneself from legal and moral liability for participating in this line of illegalities. Jurisdiction fails in this case.

Dated: Wai'anae, O'ahu, Hawai'i this 30th day of April 2019.

Pōkā Laenui (Hayden F. Burgess),
Attorney for Andrea L. June