



DEPARTMENT OF THE ATTORNEY GENERAL

News Release

LINDA LINGLE
GOVERNOR

Mark J. Bennett, Attorney General
Phone: (808) 586-1500
Fax: (808) 586-1239

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United States Supreme Court will Review Ceded Lands Case

HONOLULU – Hawaii Attorney General Mark Bennett announced today that the United States Supreme Court has granted certiorari, that is, has agreed to hear the State of Hawaii's appeal, in *State of Hawaii et al. v. Office of Hawaiian Affairs*.

The State had asked the High Court to accept the case, and to overturn the Hawaii Supreme Court's January 2008 decision holding that the United States Congress had forbidden the State from selling or exchanging any of the State's approximately 1.2 million acres of Ceded Lands, unless and until a political settlement was reached with Native Hawaiians. The State argued to the High Court that the United States Congress had done no such thing in its 1993 Apology Resolution, and that, moreover, the Congress had no power to try to exercise that type of control over the lands of a sovereign state.

The grant of certiorari is not a decision on the merits of the State's appeal - - it is simply a decision to hear the case on the merits. The parties will file briefs over the next several months, and the Court will likely hold oral argument on the case in Washington D.C. in January or February 2009. A decision will likely come from the Court by June 2009.

"I am pleased that the United States Supreme Court has granted certiorari in this important case," Attorney General Mark Bennett said. "We believe the Hawaii Supreme Court was incorrect in its holding that the Congress, in the Apology Resolution, barred the State of Hawaii from selling or transferring Ceded Lands, as the Congress had expressly granted Hawaii that right in the 1959 Hawaii Admission Act. It is our hope that the United States Supreme Court will reverse the decision of the Hawaii Supreme Court. Hawaii's Ceded Lands are held by the State for the benefit of all of Hawaii's citizens, and for a number of purposes, including for the betterment of the conditions of

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native Hawaiians. We believe that prudent management of those lands for the benefit of all of Hawaii's citizens must include, on occasion, the right to sell or exchange land. We hope the United States Supreme Court will return that right to the State of Hawaii."

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For more information, contact:
Mark J. Bennett, Attorney General
Office of the Attorney General
(808) 586-1500
hawaiiag@hawaii.gov
<http://hawaii.gov/ag>

(ORDER LIST: 554 U.S.)

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ORDER IN PENDING CASE

07-689 BARTLETT, GARY, ET AL. V. STRICKLAND, DWIGHT, ET AL.

The motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument is granted.

CERTIORARI GRANTED

07-1309 BOYLE, EDMUND V. UNITED STATES

The petition for a writ of certiorari is granted.

07-1356 KANSAS V. VENTRIS, DONNIE R.

The motion of respondent for leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is granted.

07-1372 HAWAII, ET AL. V. OFFICE OF HAWAIIAN AFFAIRS

07-1410 UNITED STATES V. NAVAJO NATION

07-1529 MONTEJO, JESSE J. V. LOUISIANA

The petitions for writs of certiorari are granted.

07-1601) BURLINGTON NO. & SANTA FE R. CO. V. UNITED STATES, ET AL.

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07-1607) SHELL OIL CO. V. UNITED STATES, ET AL.

The petitions for writs of certiorari are granted. The cases are consolidated and a total of one hour is allotted for oral argument.

07-9712 PUCKETT, JAMES B. V. UNITED STATES

The motion of petitioner for leave to proceed *in forma*

pauperis is granted. The petition for a writ of certiorari is granted limited to the following question: "Whether a forfeited claim that the government breached a plea agreement is subject to the plain-error standard of Rule 52(b) of the Federal Rules of Criminal Procedure."

07-9995 RIVERA, MICHAEL V. ILLINOIS

07-10441 CORLEY, JOHNNIE V. UNITED STATES

The motions of petitioners for leave to proceed *in forma pauperis* and the petitions for writs of certiorari are granted.

08-88 VERMONT V. BRILLON, MICHAEL

The motion of respondent for leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is granted.