

LEONA KALIMA

The named plaintiff in *Kalima v. State of Hawaii* hopes to win damages for beneficiaries

By Vicki Viotti
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For the better part of her 67 years, Leona Kalima's claim on a benefit promised to those of 50% or greater Hawaiian ancestry has been front and center in her life.

At present, it's because she's the named plaintiff representing a class of claimants in a lawsuit. *Kalima v. State of Hawaii* asserts that the state, through the Department of Hawaiian Home Lands (DHHL), breached its trust: So many qualifying beneficiaries are still on its long homesteading waiting list.

Kalima represents the 2,319 whose claims never got heard. Hawaii's Supreme Court is reviewing the case, and a ruling is pending.

But Kalima was adopted at birth, so before she even became part of that class, she had to establish for certain that she was of at least half Native Hawaiian ancestry.

Long story short, Kalima — working for the Salvation Army — was on Kauai in 1992-3, helping with the recovery from Hurricane Iniki. Guided by some documentation and old-fashioned sleuthing, she tracked down her birth parents there. And that cemented her claim on a homestead lease — for which she is still waiting.

She was raised on Oahu by her parents, attended Sa-



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cred Hearts Academy and then attended Brigham Young University to become a paralegal. After 24 years with the Office of Hawaiian Affairs, Kalima is now a research analyst for land, culture and history at the agency.

But when she was approached to be the named plaintiff on the lawsuit, she was working as an OHA housing counselor. That put her in a position to become familiar with the myriad issues of the homesteading

claims.

Kalima has taken an interest, too, in the ongoing standoff over the Thirty Meter Telescope, an issue that has drawn in DHHL, which owns land beneath the project's access road on Mauna Kea, as well as OHA, which opposes the TMT.

She does feel somewhat torn, citing her own personal interest in science, but ultimately believes not enough consideration has been given to the preservation of the summit's sacredness and cultural resources. A better home could be found for it on a site of one of the telescopes to be dismantled and removed, she added.

"It's like, where does this stop?" she asked. "I can see the science — hey, I wish I could go see! I would love to see the stars that close... but it's the destruction of the land."



Question: How long ago did you first apply for a lease? Can you estimate your Native Hawaiian blood quantum?

Answer: I actually tried to apply in 1972 with my then-husband, who was 100% Hawaiian and who did apply at that time.

For a 100% Hawaiian, he waited 26 years on a preferential list. We know this because I was pregnant with my eldest daughter and she was 26 years old when her father gave her his lease (his second wife had a Princess Kahanu homestead).

My birth certificate triggered the fact that I was adopted ... my (adoptive) father being pure Chinese and my mother being Hawaiian-Caucasian. I couldn't apply until that was rectified ... I found my birth parents in 1992-93 ...

I'm 62.5% Hawaiian, 25% Portuguese, 12.5% Japanese. ...

I eventually got on the list in 1993. Native Hawaiian Legal Corp. (NHLC) assisted me with the paperwork.

Q: Have you ever been offered a lease that you did not accept?

A: No. What's also problematic with this is one has to be qualified for a conventional home loan. Unless you know that DHHL is a lender of last resort, your life could be restricted to living right so you can qualify ... in the real economy; good luck!

Q: What were the steps you took before the lawsuit?

A: Toward the ending period to file a (DHHL) claim, OHA took in the claims to help the ICP (Individual Claims Panel). As the OHA housing counselor and familiar with the process, I was assigned to take in claims. While working with the ICP employees, I wanted to check on my claim. They couldn't find it. So, I submitted another claim. Thank God I was in this position!

ICP did not get to resolve or hear all the claims before (then-Gov. Ben) Cayetano vetoed the bill to continue the process. Therefore, we had to do something to keep the claims active.

(Then-NHLC director) Mahealani Kamaau called me and asked if I would be a class plaintiff representing the claims that had not been heard by

the panel. I spoke with the Housing Officer Stephen Morse and the OHA Administrator Dante Carpenter and they were OK with it. ...

Q: What changes could be made to reduce the waiting list and make the Hawaiian Home Lands process more effective?

A: Recently, multi-unit housing has been initiated ... along with accessory dwelling units (ADUs). Thirty years overdue. This was first proposed in the '90s. ...

Adequate funding needs to be put into ADUs. More self-help housing. The (former) Bow-la-Drome site (in McCully) should have the lower floors for kupuna housing and the top as starter home. ...

Today's lots are averaging 5,000 square feet, as opposed to the first homestead lots from the 1920s. Perhaps, subdividing said lots for other family members. ...

Restrictive housing: There was a homesteader in Waimanalo who put a bus on her property, a Sani-Toi, and ran a hose from the neighbor's house. Because this was not permissible, she was kicked off her property and the lease was given to another family.

For God's sake ... we are talking homesteading. Even the Wild West had outhouses! There needs to be alternative choices. ...

Q: How is the mission of OHA different? Should the "50 percent" be given priority as OHA beneficiaries, as well?

A: Let's not separate my people any more than we need to. OHA's assets are a combination of 20% from the ceded land revenue and the interest accrued by the corpus.

OHA has given millions of dollars to DHHL and Habitat for Humanity for building homes, and the initial 50% Native Hawaiian beneficiaries. Currently, OHA is paying off the bond debt of \$30 million at \$3 million per year for DHHL.

If you read the state Constitution that initiated OHA, it sounds like the DHHL beneficiary base. But the difference between DHHL and OHA: DHHL is strictly housing, commercial, pastoral, ranching, legislative, legacy lands, limited to a blood-quantum base Na-

tive Hawaiian and rehabilitation, for whatever that word means. I don't think we've taken on that word, as yet.

But as an "internal" community factor, DHHL *tries* to be community-involved through the community centers and the Homestead Associations. ...

Whereas, OHA has the all-encompassing, larger kuleana (responsibility). ... OHA, through its many initiatives, projects and programs, addresses health and human services, education, housing, advocacy, grants, research, legal compliance, legislative, environmental issues, historic preservation, governance, legacy and commercial lands and community, servicing (all) Native Hawaiians.

Q: Other than fulfilling the obligation to the DHHL beneficiaries, what other ways could the Hawaiian community be helped?

A: I believe many of today's peoples, from youth to kupuna, have taken advantage of education ... and have improved their lot in life through this means. This will remain an improving-lifestyle factor for those who "love to learn" in the fields of academia.

But this isn't for everyone. Therefore, good-paying jobs are crucial to the health and well-being of the Hawaiian people.

Using the TMT as an example: Those jobs they talk about are construction jobs. Short-lived, timed jobs.

When the subject came up about TMT offering jobs, we investigated: WHAT jobs? Imiloa — limited in staffing. Office of Mauna Kea Management — limited in staffing. Scientist — limited.

Of course, there's a separation of ideals: historic preservation versus livelihood. ... And the building of the TMT parts is in other countries, like India. This is the reality of it.

We need a sustainable economy beyond tourism, rail and the maunas — Mauna Kea and Haleakala.

In closing, we await the Hawaii Supreme Court opinion. Enough is enough. We have been in court for over 20 years — December 1999, lawsuit filed, seven judges — and we're not pau yet.

Let's get this resolved before more kupuna hala (die), including myself.

For Republicans, real crime is Democrats exposing Trump



For a party that prides itself on being the champion of law and order, the GOP has some peculiar ideas about crime.

Nothing President Donald Trump does, it turns out, is a crime, let alone a "high" one. That's not only because some crimes are not crimes, according to both Trump and his personal lawyer Rudolph W. Giuliani. It is also not only because a sitting president is supposedly immune from criminal prosecution — including for shooting someone on Fifth Avenue, per another Trump lawyer.

According to Republicans' airtight legal reasoning, nothing Trump does can be considered criminal because *somebody else somewhere might be doing something worse*. And just as O.J. Simpson pledged to search for the real killer, Trump and his fellow Republicans are on the hunt for the Real Crimes.

For instance: The Real Crime isn't that Trump secretly withheld military aid to extort a desperate ally into announcing a sham investigation into a political rival. Heavens no. The Real Crime is that the public *knows* that this happened.

At least so says Sen. Ron Johnson, R-Wis., who recently railed against the whistleblower's decision to "leak" information about Trump's Ukrainian shake-down by reporting it to the intelligence community's inspector general. That leak, Johnson complained, "exposed things that didn't need to be exposed."

"This would have been far better off if we would've just taken care of this behind the scenes," the senator said on NBC News' "Meet the Press," extrapolating on his dubious understanding of both the law and the Constitution. "We have two branches of government. Most people, most people wanted to support Ukraine. We were trying to convince President Trump."

In other words: The crime here isn't the arson; it's that snitching smoke alarm.

Elsewhere, other Republicans have discovered even more damning Real Crimes. They are in particularly high dudgeon that Democrats have begun characterizing the president's actions as "bribery." Not because the term is inaccurate, per se; rather, they're furious because Democrats used focus groups to determine that this verbiage was more understandable to the typical voter than the Latin "quid pro quo."

"They're making it up and polling to figure out what is best to sell to the American

people," fumed Rep. Douglas A. Collins, R-Ga., on Fox News' "Sunday Morning Futures." "That is the story people should be writing about."

Indeed, the real scandal isn't the scandal; it's the words used to *explain* the scandal.

Yet another Trump surrogate argued Sunday the Real Crime was something else entirely: that Democrats continue noticing when Trump does something wrong.

These include Trump's bullying tweet about his former Ukraine ambassador, Marie Yovanovitch, which Trump fired off as she was testifying before Congress. House Intelligence Committee Chairman Adam B. Schiff, D-Calif., read the tweet aloud during the hearing, and later said it should be viewed as part of a "pattern" of witness intimidation and obstruction of justice.

Republicans condemned this scurrilous pattern-spotting.

"It's kind of laughable that, in the middle of the hearing, he reads a witness a tweet that she's up until that point unaware of, and then says, shazam, eureka, I have another reason to impeach the president," said Rep. Michael R. Turner, R-Ohio, on CNN's "State of the Union."

Again, the Real Crime isn't the growing number of new possibly impeachable offenses; it's that Democrats are cataloging them.

Or perhaps the Real Crime might instead be that former president Barack Obama didn't shake down the Ukrainian government while deciding whether to send aid. Or the whistleblower's lawyer is a Democrat. Or that two FBI agents had an affair.

Then finally there's the Real Crime of all: that Democrats might deign to hold Trump accountable through impeachment when an election is just a year away, as Rep. Mac Thornberry, R-Tex., and other Republicans have complained. Trump has claimed it's a "coup" or an attempt to "steal" an election.

If Democrats truly believe Trump did something wrong, Republicans argue, the right way to test that thesis is at the ballot box.

There's a bit of a Merriam-Websterian-angle to this argument — i.e., that Congress' constitutional duties disappear with some arbitrary degree of proximity to a presidential election. And, of course, waiting for the 2020 election to settle the matter seems particularly dodgy when the 2020 election is the very thing Trump has been trying to compromise through assistance from Ukraine, China and who knows what other countries.

No matter: that election clock is ticking. Therefore, any exercise of congressional oversight must mean a criminal coup is afoot.

Crime doesn't pay, so they say. But whataboutism? As Trump keeps proving, that can be quite profitable.

Catherine Rampell is a columnist with *The Washington Post*.

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