

H.E. DAVID KEANU SAI, PH.D.

Head, Royal Commission of Inquiry
P.O. Box 4146
Hilo, HI 96720
Tel: +1 (808) 383-6100
E-mail: interior@hawaiiankingdom.org
Website: <http://hawaiiankingdom.org/royal-commission>

August 11, 2024

Brigadier General Stephen F. Logan
State of Hawai‘i Deputy Adjutant General
Department of Defense
3949 Diamond Head Road
Honolulu, HI 96816
Email: stephen.f.logan3.mil@army.mil

Via electronic mail

Re: Your duty to establish a military government by 12 noon on August 12, 2024

Brigadier General Logan:

This is my last notification to you. According to Hawai‘i Revised Statutes §28-3, “The attorney general shall, when requested, give opinions upon questions of law submitted by the governor, the legislature, or its members, or the head of any department.” While you are not the head of the Department of Defense, you are implicated by the conduct of the head, Major General Kenneth Hara, in the performance of a military duty. A legal opinion is “a statement of advice by an expert on a professional matter.”

The issue of the continuity of the Hawaiian Kingdom, as a State under international law, is not a novel legal issue for the State of Hawai‘i. It has been at the center of case law and precedence, regarding jurisdictional arguments that came before the courts of the State of Hawai‘i, since 1994. One year after the United States Congress passed the joint resolution apologizing for the United States overthrow of the Hawaiian Kingdom government in 1993, an appeal was heard by the State of Hawai‘i Intermediate Court of Appeals that centered on a claim that the Hawaiian Kingdom continues to exist. In *State of Hawai‘i v. Lorenzo*, the appellate court stated:

Lorenzo appeals, arguing that the lower court erred in denying his pretrial motion (Motion) to dismiss the indictment. The essence of the Motion is that the [Hawaiian Kingdom] (Kingdom) was recognized as an independent sovereign nation by the United States in numerous bilateral treaties; the Kingdom was illegally overthrown in 1893 with the assistance of the United States; the Kingdom still exists as a sovereign nation; he is a citizen of the Kingdom; therefore, the courts of the State of Hawai‘i have no jurisdiction over him. Lorenzo makes the same argument on appeal. For the reasons set forth below, we conclude that the lower court correctly denied the Motion.¹

While the appellate court affirmed the trial court’s judgment, it admitted “the court’s rationale is open to question in light of international law.”² By not applying international law, the court concluded that the trial court’s decision was correct because Lorenzo “presented no factual (or legal) basis for concluding that the Kingdom [continues to exist] as a state in accordance with recognized attributes of a state’s sovereign nature.” Since 1994, the Lorenzo case has become a precedent case that served as the basis for denying defendants’ motions to dismiss claims that the Hawaiian Kingdom continues to exist. In *State of Hawai‘i v. Fergerstrom*, the appellate court stated, “[w]e affirm that relevant precedent [in *State of Hawai‘i v. Lorenzo*],”³ and that defendants have an evidentiary burden that shows the Hawaiian Kingdom continues to exist.

The Supreme Court, in *State of Hawai‘i v. Armitage*, clarified the evidentiary burden that Lorenzo placed upon defendants. The court stated:

Lorenzo held that, for jurisdictional purposes, should a defendant demonstrate a factual or legal basis that the Kingdom of Hawai‘i “exists as a state in accordance with recognized attributes of a state’s sovereign nature[,]” and that he or she is a citizen of that sovereign state, a defendant may be able to argue that the courts of the State of Hawai‘i lack jurisdiction over him or her.⁴

Unlike Lorenzo, I provided you two legal opinions, by experts in international law, in my letter to you yesterday, August 10, 2024, that provided a factual and a legal basis for concluding that the Hawaiian Kingdom ‘exists as a state in accordance with recognized attributes of a state’s sovereign nature,’ as called for by the State of Hawai‘i Intermediate Court of Appeals and the Supreme Court. These legal opinions were authored by two professors of international law, Matthew Craven, from the University of London, SOAS, Department of Law, and Federico Lenzerini, from the University of Siena, Department of Political and International Sciences.

¹ *State of Hawai‘i v. Lorenzo*, 77 Haw. 219, 220; 883 P.2d 641, 642 (1994).

² *Id.*, 221, 643.

³ *State of Hawai‘i v. Fergerstrom*, 106 Haw. 43, 55; 101 P.3d 652, 664 (2004).

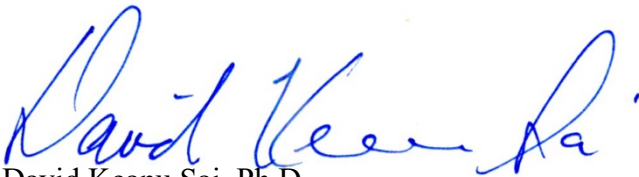
⁴ *State of Hawai‘i v. Armitage*, 132 Haw. 36, 57; 319 P.3d 1044, 1065 (2014).

As a result, this situation places the burden on the State of Hawai'i Attorney General, Anne Lopez, to rebut these legal opinions pursuant to *State of Hawai'i v. Lorenzo* and *State of Hawai'i v. Armitage*. This would legally qualify her instruction to you to ignore the calls for performing your military duty to establish a military government.

There are two scenarios you face on this subject. The first scenario is to submit a formal letter to the Attorney General, with the approval of MG Hara as head of the Department of Defense, for a legal opinion that refutes the two legal opinions that opine that the Hawaiian Kingdom continues to exist as a State under international law. The second scenario is for MG Hara, himself, as head of the Department of Defense, to submit a similar formal letter to the Attorney General. Consequently, both scenarios will remove the element of *mens rea* of willful dereliction of duty by MG Hara, and the Royal Commission of Inquiry will also withdraw its War Criminal Report no. 24-0001.

I am making every effort to shield both you and MG Hara from committing the war crime by omission, and it boils down to a simple letter asking the right question. Should you decide to request a legal opinion of the Attorney General pursuant to §28-3, HRS, I have enclosed a sample letter to be sent to the Attorney General before 12 noon tomorrow.

If you or MG Hara have any questions, do not hesitate to contact me before 12 noon tomorrow. If I do not hear from you, by email or otherwise, that you submitted the request for a legal opinion before 12 noon tomorrow, I will assume that you did not make the request, and you will be the subject of a war criminal report for the war crime by omission.



David Keanu Sai, Ph.D.

Head, *Royal Commission of Inquiry*

enclosure

cc: Major General Kenneth Hara, Adjutant General
(kenneth.s.hara.mil@army.mil)

Lieutenant Colonel Lloyd Phelps, Staff Judge Advocate
(lloyd.c.phelps4.mil@army.mil)

Colonel Wesley K. Kawakami, Commander, 29th Infantry Brigade
(wesley.k.kawakami.mil@army.mil)

Lieutenant Colonel Fredrick J. Werner, Commander of 1st Squadron, 299th
Cavalry Regiment
(frederick.j.werner.mil@army.mil)

Lieutenant Colonel Bingham L. Tuisamatatele, Jr., Commander of 1st Battalion,
487th Field Artillery Regiment
(bingham.l.tuisamatatele2.mil@army.mil)

Lieutenant Colonel Joshua A. Jacobs, Commander of 29th Brigade Support
Battalion
(joshua.a.jacobs.mil@army.mil)

Lieutenant Colonel Dale R. Balsis, Commander of 227th Brigade Engineer
Battalion
(dale.r.balsis.mil@army.mil)

Professor Federico Lenzerini, Deputy Head, Royal Commission of Inquiry
(federico.lenzerini@unisi.it)

Dear Attorney General Anne E. Lopez:

This letter is a request for a formal legal opinion regarding the continuity of the Hawaiian Kingdom as a State under international law pursuant to Hawai'i Revised Statutes §28-3.

In 1994, in *State of Hawai'i v. Lorenzo*, 77 Haw. 219, the Intermediate Court of Appeals stated that defendants that argue the courts have no jurisdiction over them must “present a factual or legal basis for concluding that the [Hawaiian] Kingdom existed as a State in accordance with recognized attributes of a State’s sovereign nature.” In 2014, the Hawai'i Supreme Court, in *State of Hawai'i v. Armitage*, 132 Haw. 36, restated “for jurisdictional purposes, should a defendant demonstrate a factual or legal basis that that the Kingdom of Hawai'i ‘exists as a state in accordance with recognized attributes of a state’s sovereign nature[,]’ and that he or she is a citizen of that sovereign state, a defendant may be able to argue that the courts of the State of Hawai'i lack jurisdiction over him or her.”

In their letter to me, dated August 10, 2024, which I am enclosing, the Hawaiian Kingdom Royal Commission of Inquiry provided me with two legal opinions that ‘demonstrate a factual or legal basis’ that the Hawaiian Kingdom ‘does exist as a state in accordance with recognized attributes of a state’s sovereign nature.’ I am requesting of you to provide me with a legal opinion, according pursuant to *State of Hawai'i v. Lorenzo* and *State of Hawai'i v. Armitage*, by refuting the legal opinions that opine that the Hawaiian Kingdom continues to exist as a State under international law.

Sincerely,