

NO. 24 - 10 19

IN THE
SUPREME COURT OF THE UNITED STATES

KURT KANAM,
PETITIONER,
v.
BURGUM ET AL
RESPONDENTS.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA*

SUPPLEMENTAL BRIEF

Kurt Kanam, Self-Represented
2103 Harrison # 143
Olympia WA. 98502

APRIL 20, 2025

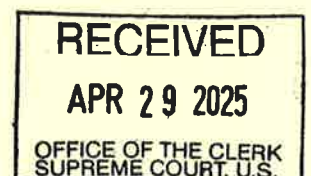


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SUPPLEMENTAL BRIEF

Pursuant to Rule 15(8), Petitioner Kurt Kanam files this brief of supplemental authority to apprise the Court of recent developments relevant to his pending petition for a writ of certiorari.

On January 23, 2025, President Trump signed an Executive Memoranda to the Secretary of Interior regarding the federal recognition of the Lumbee Tribe of North Carolina. President Trump's Executive Memorandum orders the Secretary of the U.S. Department of Interior to consider a judiciary path for federal tribal recognition for the Lumbee Tribe of North Carolina. Kanam respectfully argues the U.S. Bureau of Indian Affairs questionable authority to remove judiciary branch federal tribal recognition has been restored by President Trump's Executive Memoranda to the Secretary of Interior.

On April 9, 2025, President Trump signed another Memoranda requiring compliance with Cases *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), *West Virginia v. EPA*, 597 U.S. 697 (2022), two cases cited by Kanam.

This Court should take review of this case and remand this case back to the District Court with orders to remand this case back to the Secretary of Interior to follow President Trump's Executive Memoranda, if this Court cannot do so outright.

1. As outlined in Kanam's petition, one of the issues in the decisions below rests on whether Bureau of Indian Affairs was able to have an "express policy" to eliminate judiciary branch tribal recognition. In this case, the Bureau of Indian Affairs claimed they had eliminated judiciary branch tribal recognition as a path of federal tribal recognition. Kanam's petition contested that assertion.

2. On January 23, 2025, President Trump's signed an Executive Memoranda to the Secretary of Interior regarding the federal recognition of the Lumbee Tribe of North Carolina. President Trump ordered the Secretary to consider judicial paths to tribal recognition of the Lumbee Tribe of North Carolina. Section 2 (b) reads:

(b) The plan shall include consideration and analysis of each potential legal pathway to effectuate full Federal recognition of the Lumbee Tribe, including through an act of the Congress, judicial action, or the Procedures for Federal Acknowledgement of Indian Tribes set forth in 25 C.F.R. Part 83.

3. On February 11, 2025, the Bureau of Indian Affairs, filed President Trump's Executive Memoranda with the federal register. On Federal 12, 2025, the President's Memoranda was published in the Register in Volume 90, Issue 28 (February 12, 2025).

4. On April 9, 2025, President Trump signed a presidential memorandum requiring the immediate repeal of all illegal agency regulations that fell under the criteria of Supreme Court Cases *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), *West Virginia v. EPA*, 597 U.S. 697 (2022), two cases cited by Kanam.

As shown above, the underlying issue of whether judicial branch tribal recognition exists has been resolved in favor of Kanam.

Therefore, Kanam respectfully requests this Court take judicial notice of President Trump's two Executive Memoranda and take review of this case to empower President Trump's Executive Memoranda establishing or at least recognizing judicial federal tribal recognition. The Court should also consider the "express policy" as an illegal regulation targeted by the Presidents Memoranda.

CONCLUSION

The petition for a writ of certiorari should be granted.



Kurt Kanam, Self-Represented
2103 Harrison # 143
Olympia WA. 98502

SUPPLEMENTAL APPENDIX

TABLE OF APPENDICES

Appendix A

January 23, 2025, President Trump's Executive Memoranda to the Secretary of Interior regarding the federal recognition of the Lumbee Tribe of North Carolina. Supp.App-1-3.

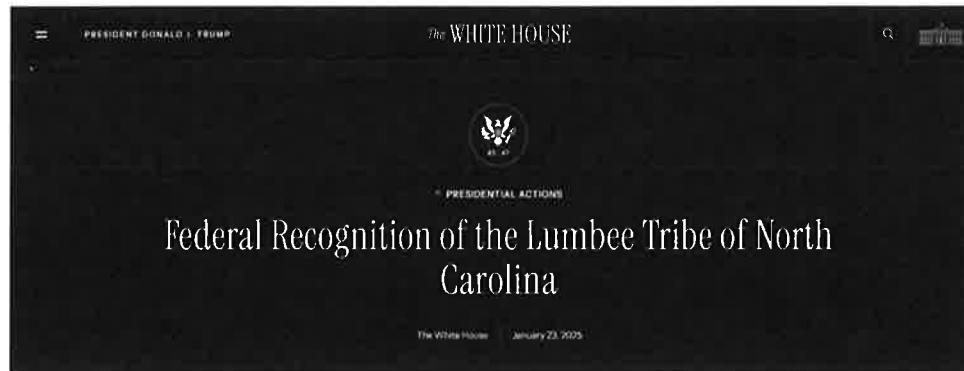
Appendix B

Federal Register Volume 90, Issue 28 (February 12, 2025). Supp.App-4-6.

Appendix C

April 9, 2025, President Trump Presidential memoranda directing all agencies to repeal all illegal regulation. President Trump cites *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) and *West Virginia v. EPA*, 597 U.S. 697 (2022), two cases cited by Kanam as authority. Supp.App-7-9.

Supp.App-1.



MEMORANDUM FOR THE SECRETARY OF THE INTERIOR

SUBJECT: Federal Recognition of the Lumbee Tribe of
North Carolina

Section 1. Purpose and Policy. The Lumbee Tribe of North Carolina, known as the People of the Dark Water, have a long and storied history. The tribe's members were descendants of several tribal nations from the Algonquian, Iroquoian, and Siouan language families, including the Hatteras, the Tuscarora, and the Cheraw. The waters of the Lumbee River and lands that surround it have protected and provided for the Lumbee people for centuries despite war, disease, and many other perils.

Supp.App-2

In 1885, the State of North Carolina recognized the Lumbee people as an Indian tribe. 1885 N.C. Sess. Laws 92. In 1956, President Dwight D. Eisenhower signed the Lumbee Act (Public Law 84-570, 70 Stat. 254), which recognized the Lumbee as the Lumbee Indians of North Carolina but denied Lumbee Indians Federal benefits associated with such recognition. Today, according to the State of North Carolina, the Lumbee Tribe consists of more than 55,000 members, making it the largest tribe east of the Mississippi River and the ninth-largest tribe in the Nation.

In 2024, the United States House of Representatives passed, by a vote of 311-96, the Lumbee Fairness Act (H.R. 1101), which would grant the Lumbee Tribe full Federal recognition, but this legislation was not considered by the United States Senate before the end of the 118th Congress. Similar legislation has passed the House of Representatives several times.

Considering the Lumbee Tribe's historical and modern significance, it is the policy of the United States to support the full Federal recognition, including the authority to receive full Federal benefits, of the Lumbee Tribe of North Carolina.

Supp.App-3

Sec. 2. Directive for Recognition Plan. (a) Within 90 days of the date of this memorandum, the Secretary of the Interior shall review all applicable authorities regarding the recognition or acknowledgement of Indian tribes and, in consultation with the leadership of the Lumbee Tribe of North Carolina, shall submit to the President a plan to assist the Lumbee Tribe in obtaining full Federal recognition through legislation or other available mechanisms, including the right to receive full Federal benefits.

(b) The plan shall include consideration and analysis of each potential legal pathway to effectuate full Federal recognition of the Lumbee Tribe, including through an act of the Congress, judicial action, or the Procedures for Federal Acknowledgement of Indian Tribes set forth in 25 C.F.R. Part 83.

(c) The Secretary of the Interior is authorized and directed to publish this memorandum in the *Federal Register*.



This document is scheduled to be published in the Federal Register on 02/12/2025 and available online at <https://federalregister.gov/d/2025-02510> and on <https://govinfo.gov>

4337-15

DEPARTMENT OF THE INTERIOR Bureau of Indian Affairs [256A2100DD AAKP300000 A0A501010.000000]

Presidential Memorandum; Lumbee Tribe of North Carolina
AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Presidential Memorandum titled “Federal Recognition of the Lumbee Tribe of North Carolina.”

DATES: The Presidential memorandum was issued on January 23, 2025.

FOR FURTHER INFORMATION CONTACT: Oliver Whaley, Director, Office of Regulatory Affairs and Collaborative Action, Office of the Assistant Secretary—Indian Affairs, (202) 738-6065.

SUPPLEMENTARY INFORMATION: On January 23, 2025, the President of the United States issued a Presidential memorandum (PM) to the Secretary of the Interior (Secretary) titled “Federal Recognition of the Lumbee Tribe of North Carolina,” which directs the Secretary to review “all applicable authorities regarding the recognition or acknowledgement of Indian tribes” and, in consultation with the leadership of the Lumbee Tribe of North Carolina, “submit to the President a plan to assist the Lumbee Tribe in obtaining full Federal recognition through legislation or other available mechanisms, including the right to receive full Federal benefits” within 90 days of the date of the PM. The PM further authorizes and directs the Secretary to publish the PM in the Federal Register .

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Bryan Mercier,

Director, Bureau of Indian Affairs, Exercising the delegated authority of the Assistant Secretary—Indian Affairs.

Federal Recognition of the Lumbee Tribe of North Carolina
January 23, 2025, Memorandum for the Secretary of the Interior
Subject: Federal Recognition of the Lumbee Tribe of North Carolina
Section 1. Purpose and Policy. The Lumbee Tribe of North Carolina, known as the People of the Dark Water, have a long and storied history. The tribe's members were descendants of several tribal nations from the Algonquian, Iroquoian, and Siouan language families, including the Hatteras, the Tuscarora, and the Cheraw. The waters of the Lumbee River and lands that surround it have protected and provided for the Lumbee people for centuries despite war, disease, and many other perils.

In 1885, the State of North Carolina recognized the Lumbee people as an Indian tribe. 1885 N.C. Sess. Laws 92. In 1956, President Dwight D. Eisenhower signed the Lumbee Act (Pub. L. 84-570, 70 Stat. 254), which recognized the Lumbee as the Lumbee Indians of North Carolina but denied the Lumbee Indians the Federal benefits associated with such recognition. Today, according to the State of North Carolina, the Lumbee Tribe consists of more than 55,000 members, making it the largest tribe east of the Mississippi River and the ninth-largest tribe in the Nation.

Supp.App-6

In 2024, the United States House of Representatives passed, by a vote of 311-96, the Lumbee Fairness Act (H.R. 1101), which would grant to the Lumbee Tribe full Federal recognition, but this legislation was not considered by the United States Senate before the end of the 118th Congress. Similar legislation has passed the House of Representatives several times.

Considering the Lumbee Tribe's historical and modern significance, it is the policy of the United States to support the full Federal recognition, including the authority to receive full Federal benefits, of the Lumbee Tribe of North Carolina.

Sec. 2. Directive for Recognition Plan. (a) Within 90 days of the date of this memorandum, the Secretary of the Interior shall review all applicable authorities regarding the recognition or acknowledgement of Indian tribes and, in consultation with the leadership of the Lumbee Tribe of North Carolina, shall submit to the President a plan to assist the Lumbee Tribe in obtaining full Federal recognition through legislation or other available mechanisms, including the right to receive full Federal benefits.

(b) The plan shall include consideration and analysis of each potential legal pathway to effectuate the full Federal recognition of the Lumbee Tribe, including through an act of Congress, judicial action, or the Procedures for Federal Acknowledgement of Indian Tribes set forth in 25 CFR part 83.

(c) The Secretary of the Interior is authorized and directed to publish this memorandum in the Federal Register .

[FR Doc. 2025-02510 Filed 2-11-25; 8:45 am] BILLING
CODE 4337-15-P



MEMORANDUM FOR THE HEADS OF EXECUTIVE
DEPARTMENTS AND AGENCIES

SUBJECT: DIRECTING THE REPEAL OF UNLAWFUL
REGULATIONS

Promoting economic growth and American innovation are top priorities of this Administration. Unlawful, unnecessary, and onerous regulations impede these objectives and impose massive costs on American consumers and American businesses. In recent years, the Supreme Court has issued a series of decisions that recognize appropriate constitutional boundaries on the power of unelected bureaucrats and that restore checks on unlawful agency actions. Yet, despite these critical course corrections, unlawful regulations — often promulgated in reliance on now-superseded Supreme Court decisions — remain on the books.

Consistent with these priorities and with my commitment to restore fidelity to the Constitution, on February 19, 2025, I issued Executive Order 14219 (Ensuring Lawful Governance and Implementing the President’s “Department of Government Efficiency” Deregulatory Initiative). It directed the heads of all executive departments and agencies to identify certain categories of unlawful and potentially unlawful regulations within 60 days and begin plans to repeal them. This review-and-repeal effort shall prioritize, in particular, evaluating each existing regulation’s lawfulness under the following United States Supreme Court decisions:

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1. *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024);
2. *West Virginia v. EPA*, 597 U.S. 697 (2022);
3. *SEC v. Jarkesy*, 603 U.S. 109 (2024);
4. *Michigan v. EPA*, 576 U.S. 743 (2015);
5. *Sackett v. EPA*, 598 U.S. 651 (2023);
6. *Ohio v. EPA*, 603 U.S. 279 (2024);
7. *Cedar Point Nursery v. Hassid*, 594 U.S. 139 (2021);
8. *Students for Fair Admissions v. Harvard*, 600 U.S. 181 (2023);
9. *Carson v. Makin*, 596 U.S. 767 (2022); and
10. *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14 (2020).

In effectuating repeals of facially unlawful regulations, agency heads shall finalize rules without notice and comment, where doing so is consistent with the “good cause” exception in the Administrative Procedure Act. That exception allows agencies to dispense with notice-and-comment rulemaking when that process would be “impracticable, unnecessary, or contrary to the public interest.” Retaining and enforcing facially unlawful regulations is clearly contrary to the public interest. Furthermore, notice-and-comment proceedings are “unnecessary” where repeal is required as a matter of law to ensure consistency with a ruling of the United States Supreme Court. Agencies thus have ample cause and the legal authority to immediately repeal unlawful regulations.

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Accordingly, I hereby direct:

1. Following the 60-day review period ordered in Executive Order 14219 to identify unlawful and potentially unlawful regulations, agencies shall immediately take steps to effectuate the repeal of any regulation, or the portion of any regulation, that clearly exceeds the agency's statutory authority or is otherwise unlawful. Agencies should give priority to the regulations in conflict with the United States Supreme Court decisions listed earlier in this memorandum. The repeal of each unlawful regulation shall be accompanied by a brief statement of the reasons that the "good cause" exception applies.
2. Within 30 days of the conclusion of the review period directed in Executive Order 14219 to identify unlawful and potentially unlawful regulations, agencies shall submit to the Office of Information and Regulatory Affairs a one-page summary of each regulation that was initially identified as falling within one of the categories specified in section 2(a) of that Executive Order, but which has not been targeted for repeal, explaining the basis for the decision not to repeal that regulation.