

No. **26-5633**

ORIGINAL

**IN THE
SUPREME COURT OF THE UNITED STATES**

Noa Kanealii Io Pono I Kelii Ua Mau

Petitioner

v.

TYLER C. SAITO ET AL.

Respondents

**ON PETITION FOR A WRIT OF CERTIORARI FROM THE
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**

PETITION FOR WRIT OF CERTIORARI

Noa Kanealii Io Pono I Kelii Ua Mau

Petitioner Unrepresented

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SUPREME COURT, U.S.

QUESTIONS PRESENTED

1. Whether, in determining if Petitioner is an "alien" under 28 U.S.C. § 1350, the court may replace his asserted kanaka-maoli Hawaiian nationality with the different proposition that he must prove "citizenship in a foreign sovereign nation," treat that reformulated proposition as foreclosed by *United States v. Lorenzo*, 995 F.2d 1448 (9th Cir. 1993), and declare him an American citizen without first applying the statutory definitions in 8 U.S.C. § 1101(a)(3) and (22), the Hawaii-specific citizenship rule in 8 U.S.C. § 1405, and under international law and legal sources on which his asserted national identity and alienage rests.
2. Whether a court may treat from the *Lorenzo*'s statement about federal criminal jurisdiction as categorically disposing of the Petitioner's national identity, and alienage, and treaty arguments without construing the 1849 Hawaiian Treaty of Friendship, Commerce and Navigation, recognizing the Hawaiian Islands and the United States as separate "respective states" acting thru plenipotentiaries with full powers; without deciding Petitioner's reliance that the Treaty remains operative under Article XVI; and without distinguishing the binding relationship through international recognition and treaty capacity powers from the separate questions of foreign and domestic enforceability and a private cause of action.

LIST OF PARTIES

Petitioner is the kanaka-maoli Hawaiian, Noa Kanealii Io Pono I Kelii Ua Mau and Appellant in Ninth Circuit No. 25-728 and Plaintiff in the USDC District of Hawaii.

Ryan ManaRa is Proposed Intervenor-Plaintiff-Appellant in Ninth Circuit No. 25-2062. He is listed because he was a party to the consolidated appellate proceeding, but he has not joined this separate petition. See Sup. Ct. R. 12.4 and 12.6.

The following people, persons and entities were defendants-appellees or defendants in the proceedings below. Public branches, departments, agencies and officers are listed by the names appearing in the record; to the extent any was sued in an official capacity, substitution is governed by Supreme Court Rule 35:

Tyler C. Saito
Josh Green
Christine Cherith Langschmidt
United States of America
Pae Aina
Thomas Anthony
Carl Langschmidt
Jeffrey Linder
Sylvia Luke
Hiro Shimada
Mathew Bracken
United States Congress
Charles E. Schumer
United States Department of State
Federal Bureau of Investigation
Kalalea Trust
Kalalea Trust Revocable Living Trust
Merrick B. Garland

Michael Soong
Robert M. King
State of Hawaii
Joseph R. Biden, Jr.
Alfred Spinney Keliuhuluhulu
Hawe Keliikoa
Benjamin F. Garfinkle
Anne E. Lopez
Mark Recktenwald
Todd G. Raybuck
United States Government
Kevin McCarthy
United States Department of Justice
Antony J. Blinken
Christopher A. Wray
Kalalea Plantation LLC
Molooa Farms LLC

CORPORATE DISCLOSURE STATEMENT

Petitioner is a free natural-born kanaka. Supreme Court Rule 29.6 does not require a corporate disclosure statement from him.

DIRECTLY RELATED PROCEEDINGS

1. Noa Kanealii Io Pono I Kelii Ua Mau v. Saito, et al., No. 1:23-cv-00276-DKW-KJM, United States District Court for the District of Hawaii. Order dismissing amended complaint with leave to amend entered June 3, 2024; final judgment dismissing without prejudice entered January 2, 2025.
2. Noa Kanealii Io Pono I Kelii Ua Mau v. Saito, et al., No. 24-3890, United States Court of Appeals for the Ninth Circuit. Appeal dismissed for lack of appellate jurisdiction on August 29, 2024.
3. Kanealii v. Saito, et al., Nos. 25-728 and 25-2062, United States Court of Appeals for the Ninth Circuit. Appeals consolidated; memorandum disposition affirming entered June 15, 2026.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Noa Kanealii Io Pono I Kelii Ua Mau respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

OPINIONS BELOW

The Ninth Circuit's unpublished memorandum disposition in Kanealii v. Saito, Nos. 25-728 and 25-2062 (June 15, 2026), appears at Appendix A. The order of the United States District Court for the District of Hawaii dismissing the amended complaint with leave to amend, entered June 3, 2024 as ECF No. 136, appears at Appendix B. The final judgment dismissing the action without prejudice, entered January 2, 2025 as ECF No. 154, appears at Appendix C.

JURISDICTION

The court of appeals entered judgment on June 15, 2026. No petition for panel rehearing or rehearing en banc was filed. The ninetieth day was Sunday, September 13, 2026; under Supreme Court Rule 30.1, the period extends through Monday, September 14, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL TREATY AND STATUTORY PROVISIONS

Article III, Section 2 of the United States Constitution extends the judicial power to cases arising under the Constitution, laws, and treaties of the United States. Article VI, Clause 2 identifies treaties made under the authority of the United States as part of the supreme law of the land.

The Alien Tort Statute provides: "The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States." 28 U.S.C. § 1350.

The Immigration and Nationality Act defines "alien" as "any person not a citizen or national of the United States." 8 U.S.C. § 1101(a)(3). It separately defines "national of the United States." Id. § 1101(a)(22). Section 1405 prescribes citizenship rules for persons born in Hawaii and for persons who were citizens of the Republic of Hawaii on August 12, 1898.

The 1849 Treaty of Friendship, Commerce and Navigation, 9 Stat. 977, including its preamble and Articles I, VIII, and XVI, is reproduced at Appendix E. Pertinent statutory and treaty provisions are set out at Appendix D.

STATEMENT OF THE CASE

I The pleadings and the private kuleana claim

Petitioner brought his action unrepresented after reporting that he was unlawfully detained and still forcefully removed from his private kuleana property at Aliomanu on Kauai. The amended complaint reported that Hiro Shimada, armed with a deadly weapon, removed and detained Petitioner from his private kuleana family lands. He further reported the coordinated plan of different actions carried-out by defendants amongst private and government actors' in conduct directed against Petitioner and all the people of Hawaiian national group. App. B-1 to B-6.

Petitioner identifies himself as Noa Kanealii Io Pono I Kelii Ua Mau, a kanaka-maoli Hawaiian and a national of Ko Hawaii Pae Āina. In the English diplomatic and treaty record, Ko Hawaii Pae Āina is identified as the Hawaiian Islands. Petitioner asserted alienage to the United States; he did not merely assert residence in a different place, membership in a private association, or unilateral exemption from generally applicable law.

Petitioner's claim of national identity, inheritance, and private kuleana begins with Ka Palapala Hemolele, the 1839 Hawaiian-language Holy Bible, which he identifies as the Primary Authority and Essential Foundation of his existence and of the law received by his national community. That confirmation is reference to the 1839 Declaration of Rights, and the two must not be conflated. Petitioner maintains that Ka Palapala Hemolele begins and is continuing as the foundational authority from which his Christian freedom and liberty arise, relationship among kanaka, ohana, aina, and the particular Aliomanu family lands must be understood.

Petitioner does not ask the Court to treat Scripture, standing alone, as a modern deed or survey. The asserted chain has two related levels. The first is foundational: the source from which Petitioner says his national identity, inheritance, duties, and relationship to aina begin. The second is juridical and parcel-specific: the constitutions, statutes, courts, land-commission adjudications, grants, awards, genealogy, surveys, patents, deeds, and judgments that implement and prove a particular claims of kuleana. The courts below collapsed both levels into a status label without construing either.

Kekiekie v. Dennis, 1 Haw. 69, 70 (1851), is relevant at the second level because it recognized that native tenants' land rights were secured through the constitutional and legal order and the land-adjudication process still in operation. Petitioner relies on *Kekiekie* as evidence that the private kuleana relationship was juridically cognizable; the case is not offered as a self-executing substitute for proof connecting Petitioner to his particular Aliomanu parcel. *Kekiekie* is merely the judicial holding decided by Hawaiian law.

II The district court proceedings

Petitioner commenced the district-court action on July 3, 2023. The court granted leave to proceed without prepayment of fees and directed service. He filed an amended complaint on October 11, 2023. The amended complaint invoked, among other authorities, Article VI of the Constitution, the 1849 Treaty, 28 U.S.C. § 1350, the federal genocide provisions, and international conventions. App. B-2, B-8 to B-10.

The private defendants Kalalea and Benjamin Garfinkle moved to dismiss. Mathew Bracken, Todd Raybuck, Hiro Shimada, and Tyler Saito filed separate motions. Anne Lopez and Sylvia Luke moved to dismiss, and Michael Soong and Mark Recktenwald sought joinder. The United States, the federal government, and the Department of Justice moved to dismiss; other federal officials and entities sought joinder. The State of Hawaii filed a separate motion. Ryan ManaRa moved to intervene as a plaintiff, asserting an interest relating to the property and transaction. App. B-3 to B-6.

Petitioner did not file substantive responses to the dismissal motions. The district court treated the jurisdictional attack as facial, stated that it would accept the pleaded allegations for that inquiry, and addressed subject-matter jurisdiction first. App. B-6 to B-8. On June 3, 2024, the court held that none of the pleaded sources supplied subject-matter jurisdiction as alleged. It reasoned, among other things, that the Treaty supplied no private right of action and that Petitioner was not an alien for purposes of § 1350 because he alleged he was alien to the United States but not to Hawaii. App. B-8 to B-10.

The court granted leave to amend because Petitioner might be able to allege a federal takings or 42 U.S.C. § 1983 claim. It denied ManaRa's intervention motion without prejudice to renewal if a second amended complaint was filed. App. B-10 to B-12. Petitioner elected to appeal rather than file a second amended complaint. An initial appeal, No. 24-3890, was dismissed as interlocutory. After final judgment was entered January 2, 2025, Petitioner filed No. 25-728. ManaRa filed No. 25-2062 from the intervention ruling.

III The two appeals and the Ninth Circuit decision

The Ninth Circuit consolidated Nos. 25-728 and 25-2062. It described No. 25-728 as Petitioner's appeal from dismissal of the amended complaint for lack of subject-matter jurisdiction and No. 25-2062 as ManaRa's appeal from denial of intervention. App. A-1 to A-2.

The panel acknowledged that the defendants mounted a facial jurisdictional challenge. It therefore stated that it would not look beyond the complaint, would take the pleaded facts as true, and would construe them in the light most favorable to Petitioner. App. A-2. It nevertheless did not examine the law Petitioner identified as the source of his nationality and alienage.

For the Alien Tort Statute, the panel quoted § 1350 as granting jurisdiction over a civil action by an alien for a tort committed in violation of the law of nations or a treaty. It then reformulated Petitioner's position as an "argument that he is a citizen of a foreign sovereign nation," stated that this different proposition was foreclosed by *United States v. Lorenzo*, and concluded: "Because Kanealii is an

American citizen and not a citizen of a foreign sovereign nation," jurisdiction was absent. App. A-3 to A-4.

The panel did not identify the constitutional or statutory provision that made Petitioner an American citizen. It did not apply the definition of "alien" in § 1101(a)(3), the separate definition of "national of the United States" in § 1101(a)(22), or the Hawaii-specific citizenship rule in § 1405. It did not construe the Treaty's reference to separate states and reciprocal classes of citizens and subjects. It did not decide Article XVI termination. It did not address Ka Palapala Hemolele, the 1840 constitutional order, Kekiekie, or Petitioner's parcel-specific sources.

The panel affirmed the denial of ManaRa's intervention motion because it concluded that the jurisdictional dismissal terminated the case. App. A-4. This separate petition seeks relief for Petitioner in No. 25-728. ManaRa remains listed as a party below under Rule 12.6; his separate appellate interests do not enlarge the questions on which Petitioner seeks review.

IV The sources the decision did not construe

The omitted sources matter because they perform different legal functions. Section 1350 supplies federal jurisdiction when the plaintiff is an alien and alleges the required tort and violation. Section 1101(a)(3) defines the relevant status negatively: a person is an alien if he is not a citizen or national of the United States. Foreign-state citizenship is not an element of that definition. Section 1405 supplies rules concerning citizenship associated with Hawaii, but its application requires the facts and legal predicates stated in the statute. The Treaty is both a federal legal

text and an international instrument recording the status and reciprocal relations of the contracting parties.

The Treaty's preamble states that the parties sought to maintain relations between their "respective states." Each appointed a plenipotentiary; the representatives exchanged "full powers" and concluded binding articles. 9 Stat. 977. Article I declares perpetual peace and amity. Article VIII separately refers to citizens of the United States and subjects of the Hawaiian sovereign and regulates their reciprocal travel, residence, property, inheritance, and security. Article XVI provides that the Treaty continues until twelve months after one contracting party gives notice to the other of an intention to terminate.

The diplomatic record predating the Treaty likewise records United States recognition of Hawaiian independence and sovereign international capacity. In an August 28, 1848 instruction, Secretary of State James Buchanan recounted the United States' "full recognition" of the independence of the Hawaiian Government and stated that the United States had pledged to accord the Government of the Hawaiian Islands "the rights and privileges of a sovereign state." The point is not that the two governments possessed identical domestic constitutions. It is that Ko Hawaii Pae Āina possessed international legal personality and the sovereign capacity to negotiate and bind itself by treaty as a separate contracting State.

Petitioner maintains that the Treaty remains operative under Article XVI because no qualifying notice of termination by either contracting party has been identified. The Republic of Hawaii is not a named contracting party, and its 1898

instrument cannot itself be treated as notice given by one of the two contracting parties under Article XVI without adjudicating succession and termination. A domestic joint resolution and the international termination of a bilateral treaty are analytically distinct questions. The lower courts decided neither of these question.

These sources do not automatically establish every element of an ATS cause of action, prove title to Aliomanu, or eliminate defenses. They do show why a categorical statement drawn from a criminal prosecution cannot replace the required source-by-source inquiry into Petitioner's asserted individual status and the legal consequences of the Treaty describing his national identity.

REASONS FOR GRANTING THE PETITION

I The decision substitutes foreign citizenship for the statutory definition of alien

The panel's rule is contrary to the text Congress enacted. Section 1350 uses the word "alien." Congress has defined that term as a person who is not a citizen or national of the United States. 8 U.S.C. § 1101(a)(3). The definition asks whether United States citizenship or nationality exists. It does not require citizenship in a presently recognized foreign government. A person may be an alien without proving citizenship in another State; otherwise, stateless persons would fall outside the statutory definition even though they are neither citizens nor nationals of the United States.

The panel asked the opposite question. It required Petitioner to establish "citizenship in a foreign sovereign nation" and treated failure of that reformulated proposition as affirmative proof that he is an American citizen. App. A-3 to A-4.

That inference does not follow from the statutory text. The absence of one alleged foreign status is not itself the legal source of United States citizenship.

The distinction matters jurisdictionally. *Sosa v. Alvarez-Machain*, 542 U.S. 692 (2004), describes § 1350 as a jurisdictional grant that permits a narrow class of law-of-nations claims. *Sosa* limits the substantive norms cognizable under the statute, but it does not authorize courts to replace “alien” with “citizen of a foreign sovereign nation.” Whether Petitioner ultimately alleged an actionable norm is distinct from whether the panel used the right status test.

The same distinction follows from ordinary jurisdictional method. *Bell v. Hood*, 327 U.S. 678, 682-83 (1946), separates the existence of federal-question jurisdiction from ultimate failure on the merits, except where a federal claim is immaterial or wholly insubstantial. *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 515-16 (2006), likewise requires courts to respect the line between jurisdictional conditions and merits rules. Here the panel made a dispositive status finding without identifying the law that supplied that status.

Nor may the conclusion be sustained merely by citation to § 1405. That statute contains several distinct rules keyed to birth dates and to citizenship in the Republic of Hawaii on August 12, 1898. Application requires findings or undisputed record facts matching the statutory terms. The panel cited none. Petitioner disputes the authority and legal predicates through which United States citizenship is attributed to him. At minimum, a court declaring his citizenship must identify the governing rule, apply its elements, and address the preserved legal objections.

This petition does not ask the Court to decide all underlying questions of citizenship, treaty obligation, or land title in the first instance. It asks the narrower question whether a court may avoid those sources by substituting the foreign citizenship for the statutory definition and by treating Lorenzo as a categorical answer, that in hind-sight transfers not just the Petitioner but the entire kanaka-maoli Hawaiian national group into an American citizenship.

II Lorenzo cannot decide a source specific alienage inquiry under the ATS

United States v. Lorenzo arose from a federal criminal prosecution. Eleven defendants residing in Hawaii challenged federal criminal jurisdiction and advanced a sovereignty objection to prosecution. 995 F.2d at 1455-56. The Ninth Circuit rejected that attack while exercising jurisdiction supplied by 18 U.S.C. § 3231. The case did not involve § 1350, an ATS plaintiff, or the definition of alien in § 1101(a)(3).

Lorenzo did not determine the national identity or individual citizenship of Noa Kanealii Io Pono I Kelii Ua Mau. It did not analyze whether a claimant was a “national of the United States” under § 1101(a)(22). It did not apply § 1405 to a person’s date and legal circumstances of birthright. It did not construe the 1849 Treaty’s preamble, reciprocal status provisions, or termination clause. It did not consider Ka Palapala Hemolele, the 1840 constitutional framework, Kekiekie, genealogy, royal patents, grants or land commission awards, or evidence connecting a claimant to his private kuleana property.

The difference is not semantic. Subject-matter jurisdiction over federal crimes and statutory alienage in a civil ATS action are different legal issues governed by different statutes. A precedent answers only the question actually decided under the authorities actually applied. Lorenzo’s rejection of a jurisdictional defense to federal prosecution cannot become an irrebuttable rule that all kanaka-maoli people are United States citizen for every statute and every record.

The decision below also converted Lorenzo’s statement about Hawaii’s political status into an adjudication of Petitioner’s personal status. Political status,

national identity, citizenship, domicile, residence, and alienage are not compatible. Congress itself distinguished "citizen," "national of the United States," and "alien." 8 U.S.C. § 1101(a)(3), (22). The courts must keep those categories distinct.

The Ninth Circuit's formulation is particularly consequential because it is categorical. Although the memorandum is unpublished, it invokes a published precedent to declare the issue foreclosed. District courts within the circuit can repeat that method whenever a Hawaiian claimant invokes the ATS. Review is warranted to decide whether Lorenzo is capable of doing the work assigned to it.

III The Treaty and diplomatic record establish recognized statehood and equal international treaty capacity requiring construction

The Treaty is not peripheral historical material. It is a ratified United States treaty printed at 9 Stat. 977. Its own words identify two separate “respective states,” reciprocal countries, citizens and subjects, and plenipotentiaries who exchanged full powers. That language records Ko Hawaii Pae Āina as a recognized international legal personality and its capacity to negotiate, conclude, and perform treaties with the United States as a sovereign contracting State.

The precise proposition is equal sovereign capacity on the international plane, not identical internal governmental powers. International equality means that each party possesses legal capacity to consent to obligations binding between States. It does not mean that their domestic constitutions, legislative powers, or governmental structures were the same. The panel did not address this distinction before recasting Petitioner’s nationality as a claim that present-day Hawaii must first be recognized as a foreign sovereign government.

This Court’s cases require interpretation of treaty text rather than avoidance by label. *Sumitomo Shoji America, Inc. v. Avagliano*, 457 U.S. 176, 180 (1982), begins with the treaty’s text and context. *Air France v. Saks*, 470 U.S. 392, 396 (1985), considers text, context, and the history of negotiation. *BG Group plc v. Republic of Argentina*, 572 U.S. 25, 37 (2014), recognizes the treaty as a compact between nations. Recognition questions may belong to the political branches, but *Zivotofsky v. Kerry*, 576 U.S. 1, 20-21 (2015), confirms that courts remain

responsible for deciding the legal consequences of authoritative recognition acts and legal texts.

The district court cited *Medellín v. Texas*, 552 U.S. 491 (2008), for a presumption concerning private enforceability. But *Medellín* underscores the distinction this case requires. Whether a treaty is self-executing or creates a private cause of action is not the same question as what the treaty means, what status it recognized, or whether it may supply the treaty or international-law predicate referenced by another statute. Section 1350 itself refers to a tort committed in violation of "a treaty of the United States." The courts could not answer the first question and silently treat every other treaty question as resolved.

Article XVI also required construction. Petitioner's position is that the Treaty continued beyond its initial ten-year term and remains operative until twelve months after one contracting party gives notice to the other. No court below identified such notice. Article I's perpetual peace and amity and Article XVI's specified notice procedure cannot be treated as meaningless without analysis.

Petitioner recognizes the domestic last-in-time rule described in the *Head Money Cases*, 112 U.S. 580 (1884), and *Whitney v. Robertson*, 124 U.S. 190 (1888). But even that rule does not justify the panel's silence. It requires identifying an actually conflicting later enactment and determining its domestic effect. It does not, by itself, establish that international notice occurred, that every treaty article disappeared for every purpose, or that recognized historical nationality can never bear on an individual status inquiry.

The Republic of Hawaii was not a contracting party named in the 1849 Treaty. Petitioner therefore contends that its 1898 cession document could not unilaterally exercise the Article XVI notice right reserved to the 1849 Treaty's contracting parties. The Newlands Joint Resolution was a domestic legislative measure, 30 Stat. 750. Whether later political acts altered domestic law, terminated the international agreement, succeeded to its obligations, or left some provisions inoperative are distinct questions. The panel answered none of them.

McGirt v. Oklahoma, 591 U.S. 894 (2020), does not control this case and did not concern an international treaty with Ko Hawaii Pae Āina. Its relevant methodological principle is narrower: solemn legal promises are interpreted through their text, and courts do not replace the required legal act of disestablishment with assumptions drawn from later practice. Minnesota v. Mille Lacs Band of Chippewa Indians, 526 U.S. 172, 202-03 (1999), likewise required a lawful basis for abrogation. Petitioner invokes those decisions for the rule of legal method - promises made are enforced according to law - without conflating tribal treaty doctrine with the distinct international status record in the 1849 Hawaiian Treaty.

At the certiorari stage, the Court need not declare the ultimate present status of every Treaty article. It need only hold that the panel could not use Lorenzo to bypass the text, the recognized sovereign treaty capacity of Ko Hawaii Pae Āina, and Petitioner's Article XVI argument while declaring his individual citizenship.

IV Ka Palapala Hemolele and the property sources must be addressed at their proper levels

Petitioner's invocation of Ka Palapala Hemolele is easily misunderstood if forced into the categories of deed, statute, or private religious preference. He identifies it as the Primary Authority and Essential Foundation through which his national existence, inherited obligations, and relationship to aina are understood. That is a pleaded source claim. The later Hawaiian constitutional, statutory, judicial, and land instruments are the positive juridical implementation and parcel-specific evidence.

United States v. Jicarilla Apache Nation, 564 U.S. 162, 177 (2011), illustrates why sources must be identified with precision. In its federal-trust context, the Court required a claimant to identify the statutes and regulations establishing particular fiduciary obligations. Petitioner accepts the need for that second step. Ka Palapala Hemolele supplies the asserted foundation; genealogy, constitutional texts, laws, royal patents, awards, grants, surveys, and judgments establishing these particular right. The panel performed neither inquiry.

Johnson v. M'Intosh, 21 U.S. (8 Wheat.) 543 (1823), is invoked only for a limited historical and methodological point concerning Christian claims. Johnson examined how European Christian sovereigns claimed discovery rights and how governmental instruments translated that asserted foundation into its own title consequences. Petitioner does not ask this Court to extend Johnson's discovery doctrine, approve dispossession, or treat Christian scripture as a deed. He relies on Johnson to show that courts identify the claimed foundational authority and then

examine the governmental and property instruments said to implement it. The same source discipline cannot be denied to the Christian Hawaiian claimant(s).

The international setting makes the distinction sharper. Johnson addressed a domestic title controversy within the asserted legal order of the United States. Petitioner invokes Ka Palapala Hemolele within a preexisting national and legal order of Ko Hawaii Pae Āina that the United States diplomatic record recognized as independent and that negotiated the 1849 Treaty as a separate State. Johnson therefore cannot supply Petitioner's international status or parcel title. It can only demonstrate that claims of Christian legal foundation have historically been treated as legally consequential when connected to sovereign and property rights.

Kekiekie supplies Hawaiian law, not federal-discovery, context. It recognized the legal security of native tenant interests in the constitutional and land-adjudication system of the Hawaiian Islands. Read with the specific evidence Petitioner offers concerning his ancestry and Aliomanu, it bears on the juridical implementation of kuleana. Whether that evidence ultimately proves title is a merits question. It cannot be answered by declaring, at the jurisdictional threshold, that Lorenzo erased the sources of legal order operating in Ko Hawaii Pae Aina.

This careful formulation avoids conflation. Ka Palapala Hemolele is the asserted essential foundation, the 1839 Declaration of Rights, the 1840 Constitution and later laws implementing a lawful order are the fruits of that foundation; they are not replacements for the foundation. Kekiekie recognizes legally protected tenant interests; it is not itself Petitioner's deed. The Treaty records and reciprocal

international status; it does not by itself prove every parcel boundary. Section 1350 supplies jurisdiction only if its statutory conditions and an actionable norm are met. Each source must do its own legal work.

V The question is important and this case permits narrow corrective relief

The decision presents an important question of federal statutory and treaty method. A federal court declared an individual to be an American citizen while identifying no citizenship source and while replacing Congress's definition of alien with a foreign-citizenship test. It then treated one sentence from a federal criminal-jurisdiction case as foreclosing all source-specific analysis. That method reaches beyond Petitioner. It affects stateless persons, persons asserting historically distinct nationality, and any ATS plaintiff whose lack of United States citizenship cannot be reduced to possession of a currently recognized foreign passport.

The issue is cleanly presented on the face of the memorandum. The panel quoted § 1350, stated Petitioner's position, cited Lorenzo, and announced the citizenship conclusion. App. A-3 to A-4. No factual reconstruction is necessary to determine whether that legal method was permissible. The panel also stated that the facial attack required acceptance of the pleaded facts as true. App. A-2.

Petitioner's failure to respond to dismissal motions and his choice not to amend do not eliminate the question. Those events may bear on forfeiture, pleading sufficiency, or the claims available on remand. But the Ninth Circuit did not affirm on forfeiture. It reached the ATS alienage issue and held it foreclosed by Lorenzo. This Court may review the ground actually adopted and vacate only that portion of the judgment.

The requested relief is correspondingly narrow. Petitioner does not ask this Court to adjudicate final title to his private kuleana property rights at Aliomanu, conclusively resolve the international status of Ko Hawaii Pae Āina, or hold that every pleaded international norm creates a private action. He asks the Court to vacate the judgment insofar as it treated Lorenzo as dispositive of his national identity, alienage and declared kanaka-maoli Hawaiian an American citizen without applying any governing sources.

On remand, the Ninth Circuit can address preservation and then apply the correct sequence: identify the statutory test; identify the asserted source of United States citizenship or nationality; construe the Treaty questions that are properly presented; distinguish international recognition, treaty operation, domestic enforceability, and cause of action; and determine whether the complaint otherwise alleges an ATS claim. That ordinary judicial process is all Petitioner seeks at this stage.

Alternatively, the Court may grant, vacate, and remand for reconsideration under the correct statutory definition and treaty method. Such relief would not prejudice the merits, but it would prevent a criminal-jurisdiction precedent from becoming a categorical substitute for enacted text and an unexamined declaration of national identity, citizenship and alienage for kanaka-maoli people of the Hawaiian national group.

CONCLUSION

The petition for a writ of certiorari should be granted. The judgment should be vacated insofar as it treated *United States v. Lorenzo* as dispositive of Petitioner's asserted national identity and alienage and declared him an American citizen without identifying and applying any governing statutory, treaty, and source law. The case should be remanded for further proceedings under the correct legal standards.

Respectfully submitted

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Petitioner Pro Se

Dated September 2026

