

21-378 TEXAS V. HAALAND

DECISION BELOW: 994 F.3d 249

LOWER COURT CASE NUMBER: 18-11479

QUESTION PRESENTED:

The Indian Child Welfare Act, 25 U.S.C. §§ 1901-63 (ICWA), creates a child-custody regime for "Indian children," a status defined by a child's genetics and ancestry. This regime is designed to make the adoption of Indian children by non-Indians more difficult. To implement this race-based system, Congress required state agencies to provide services "to prevent the breakup of the Indian family" and imposed a placement hierarchy- which may be changed at a child's tribe's direction-favoring Indian-child adoptions by the child's biological relatives, the child's tribe, and then any other Indian. Congress then directed state courts to employ a detailed federal set of procedures in state-law Indian-child-custody proceedings. The questions presented are:

1. Whether Congress has the power under the Indian Commerce Clause or otherwise to enact laws governing state child-custody proceedings merely because the child is or may be an Indian.
2. Whether the Indian classifications used in ICWA and its implementing regulations violate the Fifth Amendment's equal-protection guarantee.
3. Whether ICWA and its implementing regulations violate the anticommandeering doctrine by requiring States to implement Congress's child-custody regime.
4. Whether ICWA and its implementing regulations violate the nondelegation doctrine by allowing individual tribes to alter the placement preferences enacted by Congress.

CONSOLIDATED WITH 21-376, 21-377 AND 21-380 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 2/28/2022