

2023 LANGFAN FAMILY CONSTITUTIONAL ORATORY COMPETITION



SUNDAY, MARCH 19, 2023
10:00 AM

Moot Court Room
Cardozo School of Law
55 5th Ave, New York, NY
(5th Avenue and 12th Street)

Deadline to Enter: Monday, January 30, 2023
Email beaudrea@yu.edu

A TOTAL OF SIX PRIZES WILL BE AWARDED:

FIRST PLACE (WILF): \$1,500
FIRST PLACE (BEREN): \$1,500
SECOND PLACE: \$650
THIRD PLACE: \$400
HONORABLE MENTION (WILF): \$50
HONORABLE MENTION (BEREN): \$50

Special Thanks to the Langfan Family for their continued support.

FACT PATTERN

For much of its history, the United States sanctioned and even directed the removal of Native American children from their families and forced assimilation into non-Native society- a practice shared by other nations regarding their indigenous populations, including Australia and China (where it still continues to this day).

In 1978, the U.S. Congress responded by enacting the Indian Child Welfare Act (ICWA), which mandated that no Native American child may be adopted by non-tribal parents unless no existing extended family members or willing tribal foster parents could be found.

In 2016, the Brackeen family, who are White, adopted a 10-month-old Navajo boy after his biological mother was deemed unfit. One year later they attempted to adopt the boy's sister, at which time extended family belonging to the Navajo tribe intervened to block the adoption. The Brackeens then brought suit alleging racial discrimination. They were joined as plaintiffs by the states of Texas, Louisiana and Indiana, which likewise wish to see the ICWA overturned. The case will appear before the U.S. Supreme Court this term.

Question: Should the Brackeen's be allowed to adopt both children? Should the ICWA be overturned? What of the rights of tribal communities to remain intact and unassimilated?

SOURCES

- Brackeen et al v. Zinke et al, 388 F. Supp. 3d 514 (N.D. Tex. 2018); Brackeen et al v. Bernhardt et al, 937 F.3d 406 (5th Cir. 2019); Brackeen et al v. Haaland et al, 994 F.3d 249 (5th Cir. 2021) (en bane)

- Timothy Sandefur, "The Federalism Problems with the Indian Child Welfare Act," 26 Tex. Rev. L. & Pol. 429 (2021-2022).
- Matthew Fletcher & Wenona Singel, "Lawyering the Indian Child Welfare Act," 120 Mich. L. Rev. 1755 (2021-2022).
- <https://www.scotusblog.com/case-files/cases/brackeen-v-haaland/>
- <https://narf.org/cases/brackeen-v-bernhardt/>
- <https://www.oyez.org/cases/2022/21-376> <https://hls.harvard.edu/today/supreme-court-preview-brackeen-v-haaland/>
- <https://www.vox.com/policy-and-politics/2022/11/8/23440460/supreme-court-brackeen-haaland-indian-child-welfare-act>

JUDGING CRITERIA

In general, you will be judged based on: The clarity of your argument/thesis
Cohesive use of research material to support your argument Effective rebuttal of anticipated counterarguments
Overall style and effective delivery

YOU WILL HAVE NO MORE THAN FIVE MINUTES TO PRESENT YOUR ARGUMENT BEFORE A PANEL OF THREE JUDGES. There will be no time allotted for a rebuttal. Timing will be strictly enforced, so please prepare your remarks accordingly.

If you plan to participate, please contact Ms. Debbie Beaudreau at beaudrea@yu.edu no later than Monday, January 30, 2023.

Please send any general questions you might have to either Mrs. Lolita Wood-Hill (woodhill@yu.edu) or Ms. Illana Milch (illana.milch@yu.edu).

Questions regarding the case and legal issues should be sent to Professor Douglas Burgess (burgess@yu.edu).

