

Intake Department
ACLU of Hawaii
P.O. Box 3410
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Aloha,

This is written concerning James Glenn Barlow. I am Mr. Barlow's attorney.

Mr. Barlow, a native born United States citizen, has now spent almost eight years in the American Samoa Territorial Correctional Facility for violations of territorial criminal statutes. His trial in the High Court of American Samoa was a travesty of justice. Although the appellate process afforded to him in American Samoa was grossly inadequate he nonetheless persistently pursued his appeal to conclusion.

Barlow is now seeking federal habeas corpus review from the U.S. District Court in Honolulu. The case has been assigned to the Honorable Jill Otake. She has reviewed the petition, found it not to be frivolous, and issued a show cause order. The American Samoa Government has filed a motion to dismiss which is pending.

In this case the American Samoa Government (ASG) contends federal habeas review is not available for prisoners in American Samoa because the territory of American Samoa is not in the District of Hawaii or any other district.

Barlow contends as a United States citizen he is entitled to the same constitutional guarantee of federal habeas corpus review as any prisoner anywhere else in the United States and that the District of Hawaii is the most logical site for the trial of the case. The considerable nexus which exists between American Samoa and the State of Hawai'i is readily apparent. Without a shadow of a doubt, Hawai'i is the district which has the strongest connection to the respondents and American Samoa. The American Samoa Government has an office here in Honolulu (and in no other state) and because of the U.S. cabotage laws, Hawaiian Airlines is the only airline which services the Honolulu - Pago Pago route. All flights to the mainland from American Samoa go first through Honolulu.

This case is unique because, unlike every other place in America, American Samoa has no federal court and is not within any federal district. While respondents (ASG officers) do not specifically deny federal habeas jurisdiction extends to American Samoa, they rather disingenuously complain that to do so in

this case to protect the rights of this United States citizen would improperly expand the Hawaii federal court's jurisdiction and make American Samoa a "de facto" part of the district of Hawai'i. The respondents are essentially claiming that since American Samoa is not in this district it is beyond the reach of U.S. law and the Hawaii federal court's jurisdiction notwithstanding any connections they and ASG might have to Hawai'i. That is not the law.

As with the respondents themselves, the ties which American Samoa has to the State of Hawai'i are numerous and extensive. As the district closest to and with the most immediate connection to the territory and the respondents, the District of Hawai'i is the most appropriate and convenient venue for this case to be heard.

It speaks volumes that respondents in their pleadings have been unable to suggest any other forum which would be more appropriate.

Not too many years ago a man named Kil Soo Lee was forcing young Vietnamese women to work as slaves in his garment factory in American Samoa. The ASG would do nothing about it. (The governor's wife was one of the owners of the garment factory.) The FBI stepped in, freed the women, arrested Lee and hauled him to Hawaii for trial. Lee, whose crimes were committed entirely in American Samoa, was tried and convicted in the Honolulu federal court. That conviction was affirmed by the 9th Circuit.

Kil Soo Lee learned to his dismay that despite its remoteness from the rest of country, United States law still extends in full force and effect to the territory of American Samoa. It is now time for the U.S. District Court for Hawaii to demonstrate to the American Samoa Government that it too is subject to those laws. The first step in that process will be for the court to deny the ASG's motion to dismiss for lack of jurisdiction.

This is an important and unprecedented case. If successful, it will establish the right of prisoners in American Samoa to federal habeas review of their territorial convictions and that such actions should be brought in the District of Hawaii.

I invite the ACLU of Hawaii to submit an amicus brief in opposition to the ASG's motion to dismiss the petition. Attached please find (1) the petition for habeas corpus, (2) Judge Otake's show cause order, (3) the Motion to Dismiss, (4) my Response to the Motion to Dismiss and (5) ASG's Reply to the Response. The motion has now been submitted to Judge Otake for a decision so time is of the essence.

Please don't hesitate to contact me for additional information.

Please acknowledge successful receipt by reply email.

Mahalo

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Enclosures:
cc: James Glenn Barlow

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