

Kate Fort on: Brackeen v. Haaland

April 22, 2021, 12-1pm PT via Zoom Webinar

1 Standard CLE

12pm	Introductions	Addie Smith
12:15 pm	Case Procedural History	Kate Fort
12:30	Constitutional Issues Addressed in the Case	Kate Fort
12:45	Case Holdings	Kate Fort
12:50	Q&A	Kate Fort, Addie Smith
1:00	Conclusion	

After a 14-month wait, a sharply-divided U.S. 5th Circuit Court of Appeals in New Orleans issued a 325 page opinion in *Brackeen v. Haaland*. Although the opinion ultimately upheld U.S. Congress' authority to enact the Indian Child Welfare Act (ICWA), two judges each wrote approximately 150 page opinions in what appears to be an opportunity to gain the majority. Five additional judges however, wrote concurrences and dissents or both, creating a difficult matrix of a decision that often left an evenly split court. Although a split bench does not make for a precedential decision, understanding the split on each issue, the arguments that garnered attention, and the reasoning of each of the opinions, concurrences, and dissents is important for the ICWA practitioner and for the future of the Act. This CLE will provide an overview of the opinion, a break down of each issue litigated, and a discussion of the decision's relevance to ICWA practice.

Event webpage with additional substantive material:

<https://www.twgtrainings.com/brackeen-decision>

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Biographies

Faculty moderator/facilitator: Adrian (Addie) Smith is a nationally known Indian Child Welfare Act trainer and has worked in states across the country to change policies and improve systems that promote ICWA compliance. She has also worked with a variety of tribes on projects designed to improve tribal social service systems and tribal courts. She was formerly the staff attorney at the Nation Indian Child Welfare Association after which she worked on issues related to child welfare and dependency courts for Oregon Governor Kate Brown. Here she represented children, youth, and parents before the Oregon Court of Appeals.

Speaker: Kathryn (Kate) E. Fort is the Director of the Indian Law Clinic at the Michigan State University College of Law. In 2015, she started the Indian Child Welfare Act Appellate Project, which assists tribes in ICWA cases across the country. She is also the author of *American Indian Children and the Law*, published by Carolina Academic Press. In her role with the Center she teaches the Indian Law Clinic class and traditional classes in federal Indian law, researches and writes on behalf of Center clients, and manages administrative aspects of the Center. Ms. Fort has written articles on laches and land claims and has researched and written extensively on the Indian Child Welfare Act. Her publications include articles in the *Harvard Public Health Review*, *George Mason Law Review*, *Saint Louis University Law Journal*, and *American Indian Law Review*. She co-edited *Facing the Future: The Indian Child Welfare Act at 30* with Wenona T. Singel and Matthew L.M. Fletcher (Michigan State University Press 2009). She co-edits the popular and influential Indian law blog, *TurtleTalk* with Matthew Fletcher.

Ms. Fort graduated magna cum laude in from Michigan State University College of Law with the Certificate in Indigenous Law, and is licensed to practice law in Michigan. She received her B.A. in History with honors from Hollins University in Roanoke, Virginia. More information [here](#).

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