

Department of Philosophy

Guest Lecture Series

***Haaland v. Brackeen* and the Logic of Federal Indian Law**

November 03, 2023 ♦ 4:00 PM ♦ Dickens 207

In June 2023, the U.S. Supreme Court decided *Haaland v. Brackeen*, affirming the constitutionality of the Indian Child Welfare Act (“ICWA”), which the plaintiffs had alleged violated several sections of the U.S. Constitution. Because of the breadth of the plaintiffs’ challenge, *Brackeen* was seen as the most consequential—and potentially the most devastating—Indian law case in a century or more. But the Court’s decision revealed that the plaintiffs’ arguments were unsound from the beginning, because they were based on faulty premises. Professor Lewerenz (Kansas State (Philosophy) ’96), who coordinated the pro-ICWA briefing strategy in *Brackeen*, will explain why the plaintiffs’ arguments were doomed by their own flawed assumptions about the scope of Congressional power in Indian affairs, and about the federal-state division of authority in child welfare law. Professor Lewerenz also will address the two constitutional challenges the Court did not reach, one of which is similarly unsound, and the other suffers from a different rhetorical flaw. In doing so, Professor Lewerenz will discuss the background of the Indian Child Welfare Act and the *Brackeen* litigation, and where Indian child welfare policy goes after *Brackeen*.

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