



**ASSOCIATION ON AMERICAN INDIAN AFFAIRS**  
Protecting Sovereignty • Preserving Culture • Educating Youth • Building Capacity  
SINCE 1922

**FOR IMMEDIATE RELEASE**

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### **Protect ICWA Campaign Partners to Attend Fifth Circuit Court's *Brackeen v. Bernhardt* Rehearing**

(NEW ORLEANS, January 21, 2020) — On Wednesday, January 22, the full United States Fifth Circuit Court of Appeals (Fifth Circuit) will rehear *Brackeen v. Bernhardt*, a case challenging the constitutionality of the Indian Child Welfare Act (ICWA), and the Protect ICWA Campaign and its coalition partners will be there, on behalf of Indian Country, to show support for the 41-year-old law that protects the best interests of Indian children and families.

In 2018, a federal district court in Texas, in a widely criticized decision, held that ICWA violates the U.S. Constitution. Last year, in response to appeals brought by the federal government and the intervening tribal nations at that time (the Cherokee Nation, Morongo Band of Mission Indians, Oneida Nation, Quinault Indian Nation, and the Navajo Nation), a three-judge panel from the Fifth Circuit reversed that decision, reaffirming the constitutionality of ICWA. In an *en banc* review, complex cases of broad legal significance are reconsidered by the entire court, and not just a three-judge panel. For the *Brackeen v. Bernhardt* case, the decision reached by the *en banc* review panel will replace the three-judge panel decision from August 2019.

"We are proud to be part of a broad bipartisan coalition supporting the Indian Child Welfare Act," said the Protect ICWA Campaign, noting that the pro-ICWA coalition has helped garner support from 495 federally recognized tribes, 26 states and the District of Columbia, 77 members of Congress, more than 60 Native organizations, and the nation's leading experts in child welfare, constitutional law, administrative law, and Indian law. "We are confident that the hearing before the full panel of judges signifies the Court's recognition of how careful Congress was to craft ICWA as a model of cooperative federalism, and how important ICWA is every day in helping achieve the best interests of Indian children and families."

Principals from the Protect ICWA Campaign will be available for interviews following the hearing, including leadership and representatives from the National Indian Child Welfare Association (NICWA), National Congress of American Indians (NCAI), Association on American Indian Affairs (AAIA), and the Native American Rights Fund (NARF). To schedule interviews, please contact NICWA Strategic Communications Manager Amory Zschach at [amory@nicwa.org](mailto:amory@nicwa.org).

**WHO:**



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Sarah Kastelic, NICWA executive director  
Kevin Allis, NCAI chief executive officer  
Derrick Beetso, NCAI general counsel  
Shannon Keller O'Loughlin, AAIA executive director and attorney  
Erin C. Dougherty Lynch, NARF senior staff attorney  
Dan Lewerenz, NARF staff attorney

**WHEN:**

Wednesday, January 22. Court convenes at 9:00 a.m. Central Time.

**WHERE:**

United States Court of Appeals for the Fifth Circuit  
John Minor Wisdom U.S. Court of Appeals Building  
600 Camp Street  
New Orleans, Louisiana, 70130

Briefing in the case can be found [here](#), including the [States' Amicus Brief](#), the [Members of Congress Amicus Brief](#), the [Tribal Amicus Brief](#), the [amicus brief submitted by the leading child welfare experts](#), and others.

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**Protect ICWA Campaign**

The Protect ICWA Campaign (the Campaign) was established by four national Native organizations: the [National Indian Child Welfare Association](#), the [National Congress of American Indians](#), the [Association on American Indian Affairs](#), and the [Native American Rights Fund](#). Together, the Campaign works to serve and support Native children, youth, and families through upholding the Indian Child Welfare Act. The Campaign works to inform policy, legal, and communications strategies with the mission to uphold and protect ICWA.