

NO. 23393

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

JAMES K. HANOVA, WINIFRED P. HANOVA, and ALICE M OKUNA,
Plaintiffs-Appellees

vs.

JULY SIMEONA, Defendant-Appellant

and

UNKNOWN HEIRS, SPOUSE(S), ASSIGN(S), SUCCESSOR(S), PERSONAL
REPRESENTATIVE(S), EXECUTOR(S) AND TRUSTEE(S) OF APIKI, also
known as OLIVER APIKI, also known as L. APIKI, also known as
LIVIE APIKI, et al., Defendants

APPEAL FROM THE THIRD CIRCUIT COURT
(CIVIL NO. 95-443)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, Ramil, and Acoba, JJ.)

Defendant-appellant July Simeona timely appeals from the judgment of the circuit court of the third circuit, the Honorable Riki May Amano presiding, quieting title in favor of the plaintiffs-appellees James Hanova, Winifred Hanova, and Alice Okuna. On appeal, Simeona argues that: (1) the Department of Land and Natural Resources has jurisdiction over public lands, pursuant to Hawaii's Organic Act; and (2) Hawaii's quieting title statute is unconstitutional because it violates the fourteenth amendment to the United States Constitution in that the statute applies "to only one ethnic race."

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments made and the issues raised, we resolve that this

court will not address issues raised for the first time on appeal because: (1) the jurisdiction of the DLNR over Public Lands was not raised below and is deemed waived; and (2) the allegation that Hawaii's quieting title statute violates the fourteenth amendment was not raised below and is deemed waived.

THEREFORE, IT IS HEREBY ORDERED that the circuit court's judgment in favor of the plaintiffs is affirmed.

DATED: Honolulu, Hawai'i, January 30, 2002.

On the briefs:

July Simeona,
appellant pro se

Christopher J. Yuen
for plaintiffs-appellees