

DEC 2 1976

Territories - Pending Litigation - Major Cases

1. King v. Morton, U.S.D.C., D.C., CADC No. 73-1995 (1975)

This case involves the question of whether a U.S. citizen has a constitutional right to a jury trial in American Samoa.

In Samoa, no jury trials have ever been authorized, because it is felt that, due to Samoan culture and customs, it would be virtually impossible to secure a fair and impartial trial. The plaintiff, Jake King, is the publisher of the only local newspaper. He was tried and convicted for failing to pay income taxes. During the course of his trial he demanded a jury trial. It was denied him because there is no provision under Samoan law for a jury trial. King brought an action in the U.S. District Court for the District of Columbia to compel the Secretary to afford him a jury trial. The Court dismissed the complaint for lack of jurisdiction. King took an appeal. The D.C. Circuit Court reversed the lower court holding that there would be jurisdiction over the Secretary, if, because of his action or inaction, the fundamental constitutional rights of a U.S. citizen were violated in Samoa. Recognizing the Supreme Court rule in Balzac v. Puerto Rico, 258 U.S. 298 (1922), that a jury trial in a territory is not required if it would be impractical and anomalous to the local culture, the Court remanded the case to the District Court. for a trial on the factual question of whether a jury trial in American Samoa would be impracticable and anomalous to the traditions and culture of that territory. The case is awaiting trial.

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It is the position of the overwhelming majority of people in American Samoa that it would be virtually impossible to impanel a fair and impartial jury. The Department supports the people of Samoa.

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