

21-376 HAALAND V. BRACKEEN

DECISION BELOW: 994 F.3d 249

LOWER COURT CASE NUMBER: 18-11479

QUESTION PRESENTED:

Congress enacted the Indian Child Welfare Act of 1978 (ICWA), 25 U.S.C. 1901 et seq., "to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families." 25 U.S.C. 1902. The provisions of 25 U.S.C. 1912 establish minimum federal standards for the removal of Indian children from their families, while 25 U.S.C. 1915(a) and (b) establish default preferences for the placement of such children in adoptive or foster homes. The statute also contains several recordkeeping provisions. See 25 U.S.C. 1915(e), 1951(a).

Three States and seven individuals brought suit, asserting that these and other ICWA provisions are facially unconstitutional. The district court agreed and granted declaratory relief. The en banc court of appeals rejected most of the plaintiffs' challenges, but affirmed, in some respects by an equally divided vote, the judgment declaring the foregoing provisions invalid. The questions presented are:

1. Whether various provisions of ICWA—namely, the minimum standards of Section 1912(a), (d), (e), and (f); the placement-preference provisions of Section 1915 (a) and (b); and the recordkeeping provisions of Sections 1915(e) and 1951(a)—violate the anticommandeering doctrine of the Tenth Amendment.

2. Whether the individual plaintiffs have Article III standing to challenge ICWA's placement preferences for "other Indian families," 25 U.S.C. 1915(a)(3), and for "Indian foster home[s]," 25 U.S.C. 1915(b)(iii).

3. Whether Section 1915(a)(3) and (b)(iii) are rationally related to legitimate governmental interests and therefore consistent with equal protection.

CONSOLIDATED WITH 21-377, 21-378 AND 21-380 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 2/28/2022