

Comments Submitted to the *Honolulu Advertiser*

By the Hui Mālama I Nā Kūpuna Board of Directors:

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Napoleon's Outrage is Misinformed

Nanette Napoleon's recent diatribe against Hui Mālama lays bare her disdain for our group. She is certainly entitled to her opinion. Here are some facts to balance her tirade:

Perhaps the strongest impression her piece left was that Hui Mālama is a bully that persecutes those holding different cultural or religious beliefs. This is false. Hui Mālama has *worked in successful partnership with at least 20 different Native Hawaiian organizations and even more Hawaiian families* to repatriate iwi and moepū from 95 institutions in Hawai'i, the US, Australia, Canada, and Britain and rebury 3,500 Hawaiian individuals disturbed by looting, development projects, or scientific studies.

Hui Mālama has assisted in reburials conducted by Protestant, Catholic, Mormon, and Buddhist religious leaders. We have stepped aside in reburial cases where lineal and cultural descendants closer to those needing care were prepared to take on that responsibility, as in Waikiki, Wai'anae, Mōkapu, and elsewhere. Hui Mālama has even prepared iwi for reburials working side by side with others who followed different protocols. Hui Mālama is far from "dogmatic" and "non-negotiable," as Ms. Napoleon contends. We have and continue to work with anyone whose primary focus is on the best interests of the kūpuna (ancestors).

Toward that end, Hui Mālama has held workshops statewide for Hawaiian families to learn about such practices – from Hawaiian cultural understandings of burials and related prayers, to weaving baskets, creating kapa, and building drylaid masonry structures used in reburying kūpuna. At no time has Hui Mālama stated that its practices are the *only* practices all Hawaiians should follow, nor does it claim to have "the last say in all matters regarding repatriation."

Ms. Napoleon is perhaps unaware of Hui Mālama's record because we have not publicized our accomplishments. Hui Mālama works for kūpuna whose burials are threatened or have been mistreated, and these kūpuna already know who Hui Mālama is and what Hui Mālama has done for them.

This is why a Hui Mālama member was calling outside of the courtroom to these specific kūpuna. Ms. Napoleon's contention that this member was speaking to all kūpuna is wrong. Rather, she was beseeching those who received Hui Mālama's aid to enter into the dreams of Hui Mālama's opponents and make clear their own desires. She did not call to these spirits to physically harm these individuals, as Ms. Napoleon believes.

Ms. Napoleon's criticism of Hui Mālama's "hypocrisy" is also unfounded. She claims that two of Hui Mālama's beliefs are at odds: (1) Our belief that the disposition of the Kawaihae moepū is a Hawaiian cultural matter that a Western court should not adjudicate, and (2) that Judge Ezra's order to have us reveal the exact locations of the 83 funerary objects violates our religious beliefs and practices to fulfill our responsibility to care for the kūpuna we buried. How is that hypocritical? Both views are consistent with our Hawaiian cultural understandings.

Ms. Napoleon also seems unaware of key facts of the case. Absent from Ms. Napoleon's discussion is the NAGPRA record regarding the statements of Leighton Sukanuma as the representative of his Royal Hawaiian Academy of Traditional Arts. If anyone is being hypocritical it is Sukanuma. On August 4, 2001, Sukanuma writes in the "Document of Truth and Agreement" that the 13 Kawaihae Caves Complex claimants unanimously agreed to discuss the issue of the "final disposition of the 'human remains' and 'funerary objects'" involved in the case, but made no mention of any other category of items for consideration. Today, Sukanuma claims the items are not funerary objects at all.

Sukanuma is now suing Hui Mālama to retrieve the items from the Kawaihae caves. Yet on December 9, 2000, Sukanuma, as the spokesperson for the 13 claimants, informed the Museum that it should not seek to physically recover the 83 items until the group could make a determination about their final disposition. In the "Document of Truth and Agreement," the 13 claimants (through Sukanuma) reported to the Museum that they could not come to consensus regarding final disposition, and they did not indicate that final disposition required the recovery of the objects from the caves. As a result, the items have remained in the caves.

Sukanuma further attested in his "Document of Truth and Agreement" that since the 13 claimants could not "reach unanimous agreement on all matters" that they would "leave these in the hands of those Greater and Higher Powers that

oversee all things,” which certainly did not mean the US District Court where he filed suit. Who’s the hypocrite?

Ms. Napoleon’s lack of familiarity with the case is evident as well in her misrepresenting the position of the Hawai’i Island Burial Council and the other original claimants. In February of 2000, when Hui Mālama reburied iwi and the 83 moepū in the Kawaihae Caves Complex from which they originated, there were only four claimants to those iwi and moepū: 1) Hui Mālama, 2) the Office of Hawaiian Affairs (OHA), 3) the Department of Hawaiian Home Lands (DHHL), and 4) the Hawai’i Island Burial Council (HIBC).

At this juncture, OHA had submitted two letters (dated March 21, 1994 and January 15, 1999) to the Bishop Museum confirming their intent to return the items to the original Kawaihae caves for reburial. In 1999, the Hawaiian Homes Commission had gone on record to unanimously support the same. On November 26, 1999, the Bishop Museum received a request from the HIBC to have the items specifically repatriated to Hui Mālama for reburial. In other words, when Hui Mālama reburied the iwi and moepū, they executed exactly what each claimant stated was the desired outcome – the iwi were returned to their original burial location and the items returned to their rightful owners buried with them. Significantly, none of these original claimants and only one of the later 13 claimants is involved in the lawsuit against Hui Mālama.

Ms. Napoleon suggests that Hui Mālama has trod upon the rights of the plaintiffs in the case. Yet Napoleon fails to recognize that, especially in the case of Abigail Kawānanakoa, Kawānanakoa has chosen for over ten years not to exercise her rights. Plaintiff Nā Lei Ali’i Kawānanakoa was formed only in April of 2005 and filed suit against Hui Mālama in August of 2005. However, from 1994 the Bishop Museum consulted its principal member, Abigail Kawānanakoa, about the Museum’s NAGPRA-related holdings. From 1994 to 2005 Abigail Kawānanakoa made no claim to the Kawaihae caves items and chose not to participate in any of the Bishop Museum’s consultation about the items.

Ms. Napoleon’s emotional outpouring also directly contradicts Hui Mālama’s stated positions. Ms. Napoleon asserts that Hui Mālama “is taking a stand against (NAGPRA)” when the opposite is true. Hui Mālama has stated strongly and repeatedly that it believes the Bishop Museum correctly and completely followed the NAGPRA process and stands by the Bishop Museum’s 2001 declaration that the NAGPRA process is complete. Hui Mālama rather opposes the unthinkable notion that any NAGPRA case can, at the will of a disgruntled claimant or would-be claimant, be opened anew irrespective of unanimous agreements made by all claimants.

If Judge Ezra rules in favor of Kawānanakoa and Sukanuma, any NAGPRA case across the nation could be restarted by the protests of a single displeased would-be claimant. As in the Kawaihae case, Native burials across the nation

could be desecrated once more, iwi retrieved, and funerary objects confiscated. These items could be returned to museums, as Judge Ezra is requiring, even when a museum's "right" to the objects is solely as a purchaser of stolen goods robbed from graves – as is the situation with the Bishop Museum's interest in the Kawaihae moepū.

It is appalling that a Hawaiian like Napoleon can express such outrage about the Kawaihae case and that none of her fury is directed at the original culprits such as Forbes who broke into and looted the caves and necessitated this horrible process of setting things right.