

CONCURRING OPINION OF REIFURTH, J.

I concur in both the result and the reasoning as expressed in the majority's opinion. I write separately, however, to note that I would have addressed the State of Hawai'i's invitation that we "take the necessary action to stop frivolous claims[,] " and the implicit invitation that we hold this appeal to be frivolous and therefore assess reasonable attorneys' fees and costs under Hawai'i Rules of Appellate Procedure Rule 38 against Appellant and in favor of the State.

Appellant references the numerous pronouncements by the Hawai'i appellate courts on the subject of jurisdiction, but contends that his argument that there has been no valid legal transfer of authorization from the Hawaiian Kingdom government to the United States and State of Hawai'i government is brought "from a different perspective." Were we to reach that question in this case, I would conclude that the argument is not well-taken and would award fees and costs under Rule 38. See *Rhoads v. Okamura*, 98 Hawai'i 407, 413-14, 49 P.3d 373, 379-80 (2002), overruled on other grounds by *Alford v. City & Cty. of Honolulu*, 109 Hawai'i 14, 122 P.3d 809 (2005).

*Lawrence M Reifurth*