



VOLUME VIII, NUMBER 1

National Council for Japanese American Redress

925 West Diversey Parkway
Chicago, Illinois 60614

NEWSLETTER

NCJAR is seeking redress from the U.S. government through a class action lawsuit for the mass exclusion of 120,000 Japanese Americans during World War II.

FEBRUARY 1986

- The named plaintiffs in the suit received the letter (below) dated January 28, 1986.

IT WAS ON JANUARY 21ST...

We are delighted to report, as you no doubt know, that on January 21st, a three-judge panel of the United States Court of Appeals for the District of Columbia Circuit issued a very favorable ruling in our appeal against the trial court's dismissal of our suit. Briefly, the Appeals Court ruled that the statute of limitations and sovereign immunity do not bar our claims for unjust takings of property under the Fifth Amendment.

While we are gratified the Court held the intentional concealment of information by the government could suspend the statute of limitations, we were very disappointed that the Court upheld the dismissal of all other claims in the suit. Also disappointing was that the ruling that those who had received compensation under the Evacuation Claims Act may not now assert even a Takings Clause claim for compensation.

Before any further trial proceedings occur, we expect further appellate review (including possible rehearing before the full Court of Appeals, or a petition to the Supreme Court) because of the historic importance of this case. NCJAR and our firm will keep you informed of these developments.

In closing, permit me to quote one passage from the Appeals Court's opinion which summarizes the vindication we have already achieved:

"...the Founders [of this Nation] provided that the right to obtain just compensation for the taking of one's property should remain inviolate. In so doing, they no doubt assumed that the normal statutes of limitations would apply. But they also most certainly assumed that the leaders of this Republic would act truthfully. In the main, history has proven the Founders correct. We have also learned, however, that extraordinary injustice can provoke extraordinary acts of concealment. Where such concealment is alleged it ill behooves the government of a free people to evade an honest accounting. Should such concealment be proven here, those individuals who have not received awards under the Claims Act should be free to press this cause to its conclusion."

With best wishes,

Sincerely,

Landis, Cohen, Rauh and Zelenko

Benjamin L. Zelenko

MANHATTAN'S BOROUGH PRESIDENT HAILS REINSTATEMENT OF SUIT

I APPLAUD THE January 21 decision of the United States Court of Appeals for the District of Columbia to reinstate a lawsuit brought on behalf of the 120,000 Japanese Americans who were unjustly incarcerated by the U.S. government during World War II.

An honest accounting is long overdue for the victims of President Roosevelt's 1942 Executive Order 9066, which authorized the mass evacuation and imprisonment of Japanese Americans. Two-thirds of those incarcerated were American citizens who had never set foot on Japanese soil. In fact, according to a report commissioned by the government and completed in 1941, the Japanese Americans were considered unquestionably loyal to the United States. Yet they were branded as traitors and herded into concentration camps. Income, homes, savings and businesses were lost. But property was not the only loss incurred. The mental, physical and spiritual anguish suffered by the Japanese American people can never be repaired. No price can be set on the pain and degradation inflicted on men, women and children who were never charged with a specific crime other than being Japanese.

What occurred during WWII was more than a travesty of justice. It was a racist act. Without evidence of any wrongdoing and without due process of law, citizens and permanent residents alike were rounded up and declared enemy aliens who represented a grave threat to the security of this nation.

EXECUTIVE ORDER 9066 will forever remain a moral blot on the conscience of this nation. It saddens me that our government has to this day refused to acknowledge and right this wrong. The U.S. Government must recognize its responsibility to the victims and families of those Japanese Americans interned in WWII. Monetary compensation for the losses suffered are long overdue. In addition, a formal admission of wrongdoing must be given. Only in this way can we guard against the recurrence of such a tragic injustice.

DAVID DINKINS
BOROUGH PRESIDENT OF MANHATTAN

RULING OF SUIT GRATIFYING TO KOREMATSU

IN THE SAN FRANCISCO Chronicle story of January 22, by Paul Liberatore titled "Internment Camp Victims Can Sue U.S."—the Appeals Court ruling was particularly gratifying for Fred Korematsu. He said:

"People don't realize how much suffering Japanese Americans went through. There is no way the government can pay for the physical and emotional damage, but if it can compensate for something, it should. The government was wrong."

Korematsu, now 66, and a semi-retired draftsman living in San Leandro, California, challenged the government in 1942 with his arrest.

L E T T E R

WITH A PROFOUND sense of gratification, I commend all of you for your endurance and dedication, culminating in the recent decision of the circuit court. It is my hope that AJA's will not relax but, instead, will forge forward with renewed vigor—on all fronts, including "redress"—until, somehow, vindication is realized.

BILL MARUTANI
Philadelphia, PA

MY NAME IS . . .

- In 1981, when the hearings of the Commission on Wartime Relocation and Internment of Civilians were being held, many former internees testified while others only submitted written testimonies to Washington, D.C. Because it befits the occasion of the 44th year since that fateful day in 1941, the written testimony (below) of Berry Suzukida is printed here with his permission. e.s.

My name is Berry Suzukida. I am an American citizen of Japanese descent. Prior to World War II, our family owned a thriving business (Frank Bros. Cafe) at 4th and Hill Street in downtown Los Angeles, California.

On the morning of December 7, 1941 shortly before noon, I was busy waiting on customers when one of them approached me and said: "Berry, the Japanese just bombed Pearl Harbor." I answered: "Are you sure?" And he said: "Yes, the extras are out." So I rushed out and bought the latest editions of the L.A. Times and Examiner. Then I immediately called home and told my mother not to worry.

Following the outbreak of hostilities between Japan and America, our cafe plate glass windows were smashed several times and after the second time it happened, the insurance company promptly cancelled our policy. And on December 10th, someone posted a sign on our door that read:

OPEN SEASON ON JAPS! THIS IS A JAP JOINT! WE ARE AT WAR WITH JAPAN!

However, a remarkable thing happened. Our restaurant business more than doubled as our old customers from miles around flocked in to reassure us that, no matter what, they considered us as loyal Americans and would continue to patronize our cafe.

But the Federal government froze our bank accounts. And within weeks, the State of California cancelled our beer and wine licenses and took away our sales tax permit which meant that we could no longer conduct a business in the state of California. This loss of our business and resultant unemployment caused our family members a great deal of needless suffering and financial distress. Moreover, our older sister in Terminal Island, whose fisherman husband was picked up by the FBI, was given 48 hours to get out of town. So she and her three children moved in with us. Also another married sister and her spouse came to stay with us.

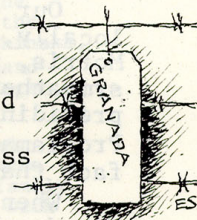
When President Franklin Roosevelt ordered us into concentration camp, I recall my mother selling her piano for 5 dollars; my brother, Henry sold his Ford for 25 dollars; my brother-in-law, Masao Sugimoto got 45 dollars for his International truck; and my brother, Frank sold our family business for a mere fraction of its actual worth.

On May 1, 1942, our entire Suzukida family (Family number #18257) was taken to Santa Anita Race Track where we were held captive five dreary months. On September 30th, 1942, we were shipped by slow train to the Amache Relocation Center in Granada, Colorado. Frequently, our train would pull into a siding while other trains with higher priority whizzed by us. On one occasion, a load of pigs passed us up.

While I was in camp, there was an election coming up. I applied for an absentee ballot but that voting privilege was denied us in camp. Behind the barbed wire fences and watchtowers of "Made in America" concentration camps, our civil rights went down the drain.

When I left Amache in 1945, I was given a one way train ticket to Chicago and 25 dollars. Looking back on those three years when I was a prisoner of Uncle Sam, I feel perfectly justified in seeking redress for such gross violation of my civil rights solely on the basis of racial background.

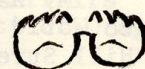
BERRY SUZUKIDA
Chicago, Illinois



W H Y ?

WHY REVIVE JAPANESE-AMERICAN wartime cases after more than 40 years? Shortly after the December 7, 1941, Pearl Harbor attack, martial law was invoked in Hawaii, and individuals considered dangerous to national security were arrested and interned. On the West Coast it was not deemed necessary to invoke martial law. By March 1942, the Western Defense Command had issued orders not for removal of individuals deemed national security risks but for mass removal from the coast of all persons of Japanese ancestry, both foreign and native born.

During the war years, I was never referred to as a citizen. I was always considered a "non-alien." I was an undergraduate student at the University of Washington at the time for an occupational career and practicing to be a first-class citizen. As a conscientious objector and member of University Meeting in Seattle, I was not an enthusiastic supporter of our entry into war, but neither was I bent on obstructing "national security" measures. I could not support an unwarranted violation of our constitutional guarantees. As a result, I refused to cooperate with the Western Defense Command order. I needed to be given more relevant reasons for my removal than the fact of my ancestry.



ES.

WITH THE SUPPORTIVE counsel of Friends/friends and the legal advice of Arthur Barnett, a member of my meeting, I reported to the FBI the day following the removal of all Japanese. Later, a Gordon Hirabayashi Defense Committee was formed, and the legal battle for citizen's rights began. Without this committee, composed of Friends and a few others like them, mine would have become an obscure case gathering dust in the archives.

It was not easy to secure competent legal counsel; mine was not a popular case during the war. Arthur Barnett contacted many of his colleagues, but although some were willing, their firms would not consent to their participation. We finally found an able young lawyer from a prestigious firm, but when his name and that of his firm appeared in the press following my arraignment, the Teamsters threatened to withdraw their legal work from his firm if it persisted in defending "that Jap." Needless to say, we had to begin a new search. Fortunately, we were able to secure a man with a relevant background: a Republican member of the American Legion who was keenly interested in defending the Constitution.

Our court battles were neither easy nor successful. Some funds were raised locally, but mainly they were raised with assistance from Clarence Pickett and Homer Morris, using the American Friends Service Committee mailing list and through a sympathetic foundation known to them. We did not win in the district court when the presiding judge ruled that the prevailing law was the Western Defense Command Proclamation, which in effect suspended my constitutional guarantees in spite of the fact that martial law had not been invoked.

When our appeal eventually reached the Supreme Court, we thought we would have our day in court. Not so. We found that the Supreme Court had gone to war, too. Instead of demanding evidence for the suspension of constitutional guarantees to citizens regardless of race, religion, creed, or national origin, the Supreme Court accepted the government's position on the word of government officials and military officers. They could have asked why it was deemed feasible to handle suspects on an individual basis in Hawaii, which was under martial law, which had already suffered a severe air attack, and which had those of Japanese ancestry as approximately one-third of its population, while it was considered necessary to use mass treatment on the basis of ancestry in an area in which martial law had not been deemed necessary, which had suffered no military attack, and in which the population of persons of Japanese ancestry was a mere two percent. But they did not.

ALTHOUGH WE NEVER relinquished the hope that some day in some way the records would be corrected, my case and that of two others, Fred Korematsu and Minoru Yasui, remained dormant for more than 40 years. In 1980-81, using the Freedom of Information Act, Peter Irons, a legal historian, was investigating the conduct of lawyers on both sides of the Japanese-American constitutional cases. He discovered in the musty, old files of the federal archives that the Western Defense Command had on its desk FBI, Office of Naval Intelligence (ONI), and Federal Communications Commission (FCC) reports denying danger of espionage or sabotage at the very moment it was stating in

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Continued from page 4 WHY?

its brief that the removal action was "militarily necessary." Western Defense Command had knowingly withheld from the Supreme Court the FBI, ONI, and FCC reservations for a mass, forced uprooting. (During the war the government continued to use the humanitarian euphemism, "evacuation.")

Peter Irons contacted Dale Minami, a San Francisco lawyer, and through him, some other Asian-American lawyers on the West Coast to explore the possibility of appeals. This group of lawyers then contacted Fred Korematsu, Minoru Yasui, and me and asked if we would consider becoming petitioners through a rarely used procedure called "writ of error *coram nobis*." Although the seven-year statute of limitation had long since expired, *coram nobis* allows opportunity to petition for a hearing on the grounds of government misconduct. Thus three sets of legal teams, maintaining close liason, were established to launch simultaneous petitions for *coram nobis* in the respective federal district courts of San Francisco, Portland, and Seattle. In January 1983 a major press conference was held in San Francisco to launch the three cases, and a public education group, the Committee to Reverse the Wartime Japanese-American Cases, became busy and has remained active ever since.

The Korematsu petition came to a favorable conclusion in November 1983. His charges were vacated, the wartime indictments were dismissed, and there was strong criticism by the court of government misconduct. The federal government did not appeal, so that case is now closed. In 1984, the Yasui petition, heard in Portland, received an identical vacating of charges and dismissal of indictments, but included no comment regarding government misconduct. Lawyers for Yasui have appealed this limited conclusion.

MY PETITION WAS HEARD in Seattle on May 18, 1984. Instead of ruling on the petition after reviewing documentary submissions, as in the Korematsu and Yasui hearings, Judge Donald S. Voorhees indicated that he had not made up his mind. He stated that he was very impressed with the presentation of the petitioner and that he would like to hear more. He denied the government's motion to dismiss and scheduled an evidentiary hearing (like a trial) for June 17, 1985.

From June 17 through June 27, the 43-year-old case was resurrected and several aspects were contentiously debated. The focus of the *coram nobis* petition was government misconduct (suppression of information, presentation of untruths) and the implications the alleged misconduct may have had on the final verdict. It was not, unfortunately, a full retrial. On my team were 12 attorneys, all volunteers, including my wartime counselor, Arthur Barnett, now 78. Unlike Arthur's wartime team, this one was much larger and younger, and half of them were third-generation Americans of Japanese ancestry with the rest being Chinese and Caucasian-Americans.

Edward Ennis, wartime Department of Justice official responsible for preparing the government brief in the Hirabayashi case, was an important witness. He provided evidence of conflict between the Justice and War departments on the issue of mass removal and, at the least, felt the contrary evidence should be included in the government brief to the Supreme Court. His qualifying footnote to the War Department claim of "military necessity" was deleted by his superiors.

Peter Irons, author and professor, testified how he discovered from the archives the correspondence that brought to light the opportunity to petition for the hearing. Our other witnesses provided information about the difficulty of securing materials from the archives, even after declassification of erstwhile secret documents and the Freedom of Information Act.

Among the many supporting organizations and agencies is the attorney general of California [see page one] whose wartime predecessor was a vigorous supporter of the government's uprooting process.

The government, surprisingly, did not call upon their two major wartime heavyweights, John J. McCloy, Assistant Secretary of War and the senior officer in charge of the Japanese removal and detention, and Karl Bendetsen, the chief architect of the removal and detention programs. We were anticipating their appearances in court with a number of questions. Instead, the government focused on witnesses who testified about the fear of espionage and sabotage and the Magic cables (intercepted and decoded Japanese government messages), which did not speak relevantly to the matter of government misconduct.

At the end of the well-attended and fairly conducted hearing, Judge Voorhees set schedules for post-hearing briefs: first from our lawyers by the end of July, the government's response by the beginning of September, and our final brief by the beginning of October.

Continued on page 6

D R O P P I N G B Y . . .

J IMMIE OMURA WAS a recent guest of the NCJAR board at their December 2nd meeting held at the home of Sam and Haru Ozaki. The board remembered his earlier visit, when he was invited to NCJAR's 1983 observance of EO 9066. Also present for the program at the time was Joy Kogawa, author of OBASAN.

The purpose of his brief stay in Chicago was to gain and verify additional information for his book, which is to be an autobiography of his struggles as a Nisei journalist.

During the evening, Omura described to the board what took place at the "Coming of Age in the Thirties" conference held in Los Angeles on September 14th. The confab brought together Nisei writers and journalists. Their experiences of the past 50 years were shared with all those who attended.

DROPPING BY AND sitting in on NCJAR's November 11th monthly meeting were Brooks and Sumi Iwakiri of Burbank, California. They briefed the board on the "Forum on Redress" held on October 5th at the Venice Japanese Community Center in Los Angeles. Brooks and Sumi were here a year ago in October. How time flies!

EDDIE SATO

SEASONS GREETINGS TO ALL OF OUR SUPPORTERS



Continued from page 5 WHY?

WHY REVIVE JAPANESE-AMERICAN wartime cases? Certainly to erase the convictions recorded against me, but there is more. As a test case, my case can help to remove the dark cloud hovering over 120,000 Japanese-Americans who were mistreated to wonder to this day about their citizenship.

When the unprecedented uprooting of U.S. citizens occurred and our people were confined to internment camps, enough safeguards and principles existed in our Constitution to have protected us. Missing, however, was the will of the people, including the Supreme Court, to uphold constitutional guarantees.

During the war my hopes were constantly buoyed by the Friends/friends who visited me in jail, and by others who supported the Gordon Hirabayashi Defense Committee. These activities were definitely not popular then. Today, citizen vigilance is expressed on many fronts, for example, Central America, remembrance of the Holocaust, the continuing problems in Southeast Asia, as well as social issues at home. My petition is another area in which such vigilance is demonstrated.

I AM PRIVILEGED to witness and be a part of this demonstration for human rights supported by a strong citizens committee and by my legal team. It serves us well to remember that our constitution and the increasing number of human rights laws are mere scraps of paper unless active citizen vigilance ensures that they are upheld.

--Reprinted by permission

- The (above) was from Gordon Hirabayashi's article "Why Revive the Japanese-American Wartime Cases? which was printed in the August 1/15, 1985 issue of FRIENDS JOURNAL.

R E M I N D E R . . .

"UNFINISHED BUSINESS will be telecast on Tuesday, December 17th, on PBS (WTTW - Channel 11, Chicago) at 9:00 pm (CST). The documentary revolves around the Supreme Court test cases of Korematsu, Yasui and Hirabayashi.

DEAR FRIENDS,

DECEMBER 1985

THE SEASON OF lights and goodwill is upon us, and I am befuddled. My sister Saeko Akagi—Margaret she called herself—was killed while crossing at 45th Street and 10th Avenue in New York. The season is displaced. At our November 11th meeting, the NCJAR board enacted guidelines for writing in its newsletter. They prohibit religious themes and limit personal expression. I am at a loss for the formulation of grief that conforms. Even as I write, I am uncertain whether this paragraph or the entire letter will be excised. I think these guidelines, though well-intentioned, misguided. I am sure I commit many journalistic sins in writing these letters. I am no journalist. I have been criticized for wandering afield into other issues other than redress. I have been charged with red-baiting by some of my Marxist-Leninist friends for identifying their philosophical persuasion. Manifestations of my Christian faith offend others. I borrow the salutation "friends" from the Quakers, and the benediction "peace" is biblical. I may offend some of my dear Christian friends with my admiration for Lao Tse and Confucius. It is difficult to be Asian without becoming aware of these two spiritual sources. Although I try to be careful about grammar and style, my English remains imperfect.

The sin of these guidelines and other attempts at controlling the writer's art is in inflicting a specific, often an individual's view on all writing within their range. At one point these guidelines state, "Redress is not a religious issue." This is certainly legitimate as an individual's opinion. But the facts don't agree. NCJAR received a substantial grant from the United Church Board for Homeland Ministries. The 1980 General Conference of the United Methodist Church enacted a resolution supporting the redress movement. I would not have spent the past six years of my life in the movement except as part of my Christian vocation. While I do not believe redress is a sectarian issue or exclusively Christian. I do believe it involves a belief in justice, a tenet of many faiths.

Rather than limiting free and diverse expression, we ought to nurture it. Contrary views could be expressed in this space. I must admit to diminished enthusiasm for writing here. I may be too sensitive to restraints. Others may be more willing to conform to—or flaunt—these guidelines.

AND WHAT OF PERSONAL comments? Sometimes I think there is nothing more arrogant than the facelessness of bureaucracy. I read the transcripts of our hearing before the three-judge panel of the U.S. Court of Appeals for the District of Columbia. Instead of "Judge Ginsburg asked, . . .," we read "QUESTION: . . .," as though descending from Mount Olympus. President Reagan's Star Wars proposal sounded like another scientific marvel to me until I learned that Karl R. Bendetsen, architect of mass exclusion and detention, is one of its prime movers. The redress movement is not faceless. Although an institutional structure is necessary to it, it has succeeded largely through the infectious friendliness of Aiko and Jack Herzig, letters exchanged with friends, the generosity of forty ronin and hundreds more, the support of persons like Joyce Okinaka, Lloyd Wake, Chizuko Omori—the list is long, filled with wonderful faces. It is hard for me to believe that such persons would begrudge me a moment of personal privilege.

I SHALL MISS SAE. She and my two oldest brothers were born in Japan and raised in America. A younger brother and another sister and I were born in America. We were half Japanese, half American. America was not so much a land of promise for our family as one of poverty and racial intolerance. Around 1930, both our parents were ill with tuberculosis: I was sent to the Shonien, an orphanage for Japanese in Los Angeles. I knew I had been there with my brother Sohei. Last year, Sae revealed to me that she had gone there with us. She described the perfunctory goodbye of our father and the trip with the social worker to the Shonien. None of us completely remembered the trauma of this transition, but she, at age eleven, remembered more than my brother, at five, and I, at three. She explained, with tears, I may not have remembered her because a few months after our arrival, she was sent off to work as a housegirl, a child-maid. It took her entire life to be able to tell this story. But during her life she understood and loved me in the special way that witnesses, usually mothers, do. The truck that struck her took a good part of me with her.

Peace,

WILLIAM HOHRI

■ NOTE: We wish to acknowledge that Margaret Akagi was a supporter of NCJAR.

(The guidelines are printed on the following page.)

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LETTER

I really appreciate receiving the newsletter. It keeps me informed of your civil case. I hope the Court of Appeals renders a favorable result, and if that is not, then a petition for hearing.

PEGGY NAGAE
Assistant Dean
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- If you do not wish to have your name listed as a contributor, please indicate when you remit.



NCJAR newsletter
editor: Eddie Sato
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- NOTE: The Policy and Guidelines of the NCJAR newsletter was initially adopted by the board on October 1, 1984; reconsidered and adopted as amended on November 11, 1985.

The newsletter is the critical link with our readers. It is our most important asset. It is the thing that keeps contributors in touch with NCJAR. It is the vehicle for keeping them informed about redress, developments in the lawsuit, and related matters, (e.g., a listing of contributors, highlights of board meetings, appropriate financial information, what other meetings were held) with the objective of winning supporters and financial backing.

GENERAL GUIDELINES The editor and newsletter committee will be responsible for the following:

The newsletter is to be published monthly, no less than bi-monthly. The editor and newsletter committee are responsible to the board. The newsletter will develop a wide base, with many people contributing different kinds of articles. It will keep abreast of all redress issues, not only our lawsuit, and it will reflect this awareness. It will publish reports from the attorneys on the progress of the lawsuit and related matters and will urge readers to send in questions for the attorneys. The newsletter will use names of people in questions for the attorneys. The newsletter will use names of people in the organization, the board and contributors, so that they become known to one another, in order to develop and maintain a sense of community and of common effort.

CONTENT GUIDELINES

- 1) The newsletter is to be educational and informational in purpose and will pertain to issues on redress and related subjects. (Personal items are acceptable if they are germane and kept to a minimum.)
- 2) While NCJAR has a church affiliated connection to the Redress Legal Fund of the United Methodist Church, redress is not a religious issue. Readers come from widely diverse religious backgrounds. The newsletter will be mindful of the diversity among our readers and not exclude those with different religious views by the use of sectarian language.
- 3) When there is disagreement with other persons or organizations, it is incumbent upon the writer to state his/her position and then carefully document it. Making slurs or charges without documentation can be detrimental to NCJAR.
- 4) The newsletter encourages letters to the editor, including those with viewpoints different from the newsletter. It is a good way for us to grow. All letters need to be signed and have a return address.
- 5) Reprints from other sources are to be kept to a minimum. Writers are encouraged to use their own copy.

Continued on page 3

ATTENTION!

The 56-page APPEALS
COURT
OPINION
is available
at \$3.00
per copy.

NCJAR
has only a
limited supply.

<p>United States Court of Appeals FOR THE DISTRICT OF COLUMBIA CIRCUIT</p> <p>No. 84-5460</p> <p>WILLIAM HONRI, et al., APPELLANTS</p> <p>v.</p> <p>UNITED STATES OF AMERICA</p> <p>Appeal from the United States District Court for the District of Columbia (D.C. Civil Action No. 83-750)</p> <p>Argued September 24, 1985 Decided January 21, 1986</p> <p><i>Benjamin L. Zelenko, with whom E. Michael Rauk and Ellen Godbey Carson were on the brief, for appellants.</i></p> <p><i>Jeffrey Azeirad, Attorney, Department of Justice, with whom Richard K. Willard, Acting Assistant Attorney General, and Joseph E. diGenova, United States Attorney, were on the brief, for appellee.</i></p>

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to have your name listed
as a contributor,
please indicate
when you remit.



NCJAR newsletter
editor: Eddie Sato
staff: Emi Fujii
Winifred McGill
Doris Sato

☐ **APPEALS COURT OPINION****AVAILABLE THROUGH NCJAR**

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| <input type="checkbox"/> NCJAR COMPLAINT | \$3.00 |
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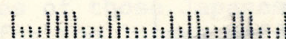
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