

TIN LIO, PETITIONER AND APPELLANT, VS. THE INSULAR COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLANT.

G. R. No. 10733. October 20, 1915

Ponente: JOHNSON, J.

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JOHNSON, J.:

This was a petition for the writ of habeas corpus. Its purpose was to secure the liberty of the plaintiff. At the time of the presentation of the petition, the plaintiff was being held by the Collector of Customs for deportation.

It appears from the record that the plaintiff is a Chinese person, thirty-nine years of age; that he was a laborer, that he had resided in the Philippine Islands for some time prior to the 17th of April, 1912; that on the 17th of April, 1912, he obtained a Chinese laborer's return certificate, No. 7374; that on or about the 21st of April, 1912, he left the Philippine Islands, on the steamship Rubi for China; that on or about the 18th of April, 1913, his original Chinese laborer's return certificate was extended by the acting American consul at Amoy, China; that later, on the 3d of December, 1913, said certificate was further extended until the 3d of February, 1914, as shown by the indorsement thereon; that said certificates were extended by reason of the sickness of the plaintiff; that a further physical examination of the plaintiff was had on or about the 3d or 4th of March, 1914, and he was again advised to see a doctor. No further extension of his certificate seems to have been made. He arrived at the port of Manila on the steamship Taisang on the 18th of June, 1914, and asked permission to land. He was refused landing for the reason that he had not returned to the Philippine Islands within one year from the date of his original certificate (the 17th of April, 1912) nor within one year thereafter under an extension by the American consul at Amoy, or by any other authority of the United States.

Upon the foregoing facts the board of special inquiry denied the appellant the right to enter the Philippine Islands. An appeal from that decision was taken to the Collector of Customs and affirmed by him. Thereupon the plaintiff presented a petition for the writ of habeas corpus in the Court of First Instance of the city of Manila.

After hearing the evidence, the Honorable Simplicio del Rosario, in a carefully prepared opinion, reached the conclusion that there was not sufficient evidence to justify the reversal or modification of the conclusion of the Collector of Customs. From that decision the appellant appealed to this court and made several assignments of error.

With reference to the first assignment of error, this court has decided in numerous cases contrary to the contention of the appellant. This court has decided: first, that the Solicitor-General of the Philippine Islands, in his official capacity, has a perfect right to represent the officials of the Insular Government, in courts of record, and that he has a right to make a return to a writ directed to the Insular Collector of Customs, by virtue of his official duties; and second, we have frequently decided also that the board of special inquiry, in relation with the Insular Collector of Customs, has a right to determine, under the Chinese exclusion laws, in the first instance, what Chinamen may enter the Philippine Islands.

The appellant discusses his 3d, 4th, 5th and 6th assignments of error together. These assignments of error present

the question whether a Chinese laborer, who leaves the Philippine Islands with a Chinese laborer's return certificate, may return after the expiration of two years.

The petitioner herein was granted a Chinese laborer's return certificate on the 17th of April, 1912, authorizing him to visit China for a period of one year. Said certificate was issued in accordance with the provisions of section 7 of the Act of Congress of September 13, 1888, as amended by the Act of Congress of the 29th of April, 1902. Said Act of Congress of the 13th of Sept., 1888, in part provides as follows: "The right to return under the said certificate (Chinese laborer's return certificate) shall be limited to one year; but it may be extended for an additional period, not to exceed a year, in cases where, by reason of sickness or other cause of disability beyond his control, the holder thereof shall be rendered unable sooner to return, which facts shall be fully reported to and investigated by the consular representative of the United States at the port or place from which such laborer departs for the United States, * * * and no Chinese laborer shall be permitted to reenter the United States without producing to the proper officer of the customs at the port of such entry the return certificate herein required."

This provision of the Act of Congress of the 29th of April, 1902, (Sept. 13, 1888) was adopted by the Congress of the United States, in conformity with article 2 of the treaty between the United States and China, of March 17, 1894. Art. 2 of said treaty, among other things, provides: " (first) and such right of return to the United States shall be exercised within one year from the date of leaving the United States; but such right of return to the United States may be extended for an additional period, not to exceed one year, in cases where by reason of sickness or other cause of disability beyond his control, such Chinese laborer shall be rendered unable sooner to return—which facts shall be fully reported to the Chinese consul at the port of departure, and by him certified, to the satisfaction of the collector of the port at which such Chinese subject shall land in the United States. And no such Chinese laborer (those with Chinese laborer's return certificate) shall be permitted to enter the United States by land or sea without producing to the proper officer of the customs the return certificate herein required."

In the present case no contention is made that the appellant returned to the Philippine Islands within the year immediately following the date of his return certificate; neither is it contended that he returned within the additional period of one year which had been granted to him by the consular representative of the United States at the port or place from which he had departed for the United States or territory thereof.

The Supreme Court of the United States, as well as the Federal courts, has frequently decided that Chinese aliens are not permitted to enter territory of the United States unless they have complied strictly with the law. The law provides that Chinese aliens shall not be permitted to enter territory of the United States without what is known as the "section six certificate." If they are not possessed of said certificate they cannot enter and they will not be permitted to present any proof as a substitute therefor. We think the doctrine which has been repeatedly announced relating to the "section six certificate," may equally well be applied to the provisions of the law relating to the Chinese laborer's return certificate. The law seems to be mandatory. It provides that the certificate shall be limited to one year, and for an extension of an additional period "not to exceed a year." The plaintiff herein not having returned within the year after his first certificate, and not having returned within the period of a year thereafter, we find no reason now for reversing or modifying the decision of the lower court. The same is, therefore, hereby affirmed, with costs. So ordered.

Arellano, C. J., Torres, Carson, and Araullo, JJ., concur.

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