

**GUI PENG HUI, IN BEHALF OF GUI ENG, PETITIONER AND APPELLEE,
VS. THE ACTING INSULAR COLLECTOR OF CUSTOMS, RESPONDENT
AND APPELLANT.***G.R. No. 37105. December 09, 1933*

Ponente: ABAD SANTOS, J.

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This is a petition for a writ of habeas corpus filed in the Court of First Instance of Manila, with a view to set aside an order of the immigration authorities denying Gui Eng, a Chinese citizen, the right to enter this country as a minor son of the petitioner-appellee, a resident Chinese merchant.

It is well-settled that minor children of resident Chinese merchants are entitled to admission into this country, and the principal question raised by this appeal is whether Gui Eng is a minor.

The evidence shows that Gui Eng arrived in this country on April 22, 1930; and that on December 2, 1931, upon the petition of the immigration authorities, three quarantine officers declared that, in their opinion, said immigrant was more than 21 years of age. At the hearing of the case on October 1, 1931, before a board of special inquiry, the immigrant testified that he was 22 years old when he arrived here, and that his younger brothers and sisters were 21, 19, 17, 15, 12, 9 and 5 years old, respectively. His father corroborated his testimony, and added that he married Gui Eng's mother 24 years ago. The evidence further shows that, when Gui Eng was denied admission, his counsel moved for a reexamination of his age, and, when a reexamination was made by Dr. E. R. Pelican, one of the officers who examined him previously, he was certified to be under 21 years of age when he arrived in this country. On the other hand, the board of special inquiry, which personally examined the immigrant, was of the opinion that, taking into consideration his physical development, his fully developed muscles, the noticeable wrinkles on his forehead, and his rough and hardened skin, he was more than 25 years old. This description is important because, according to Gui Eng, he was a mere student while in China and that he came here for the purpose of continuing his studies.

At the hearing of this petition in the court below, no evidence was presented other than that introduced at the hearing before the immigration authorities. It would appear, therefore, that the only evidence relied upon by the petitioner-appellee on the question of Gui Eng's age, was the last opinion given by Dr. Pelican.

In *Dy Keng vs. Collector of Customs* (40 Phil., 118), this court has had occasion to pass upon the probative force of an opinion similar to that given by Dr. Pelican. In that case, the principal issue was whether or not Dy Keng was a minor. When the matter was referred to the quarantine officers, they declared that, in their opinion, Dy Keng was close to and probably over 21 years of age. This court declined to give credit to said opinion on the ground that it contained no particular fact or facts on which the appellate court could judge whether or not said officers were misled. In the case before us, the opinion of Dr. Pelican is contained in the following indorsement:

"Respectfully returned to the Insular Collector of Customs, with the statement that it is the opinion of the undersigned that this immigrant was under 21 years of age on April 22, 1930."

The other question raised here relates to the identity of Gui Eng as a son of the herein petitioner-appellee.

While in ordinary cases it is the peculiar province of the trial court to pass upon the credibility of witnesses, in immigration cases the rule is different. This is because in the latter cases seldom, if ever, any evidence is introduced other than that presented at the hearing of the case before the administrative authorities. In *Loo Sing vs. Collector of Customs* (27 Phil., 491), this court held that the courts will not modify the decision of the immigration authorities when their conclusions are based upon some evidence. In *Leong Guen vs. Collector of Customs* (31 Phil., 417), this court also held that the conclusion of a board of special inquiry that a Chinese alien attempting to enter the Islands was not a minor, will not be changed or modified if there exists some evidence to support the conclusion. Again, in *Sing Jing Talento vs. Collector of Customs* (32 Phil., 82), this court held: "The customs authorities, in passing upon the question of the right of Chinese aliens to enter territory of the United States, act more or less as a jury in ascertaining what are the facts. They have an opportunity to hear, to see and to weigh the testimony of the witnesses and to judge of their credibility. Customs authorities are under no obligation to believe the declarations of witnesses when their manner and conduct is such as to cause suspicion or disbelief in their veracity, even though such declarations are not disproved by other witnesses or other proof. The mere fact that the immigration officers do not accept certain sworn statements is not of itself sufficient to justify the courts in taking jurisdiction of the cause upon the ground that there exists an abuse of authority." This doctrine was followed in *Tan Puy vs. Collector of Customs* (36 Phil., 900); and *Lim Cheng vs. Collector of Customs* (42 Phil., 876). It is only where there is no proof whatever to sustain the order, or where no fair hearing was granted, or where there was an arbitrary disregard of the conceded or undisputed facts, that a writ of habeas corpus will issue. (*Co Puy vs. Collector of Customs*, 36 Phil., 409; *Dy Keng vs. Collector of Customs*, supra; and *Quan Far vs. Collector of Customs*, 40 Phil., 779.)

After reviewing the record of this case, we are of the opinion that there is no sufficient ground to nullify the findings and decision of the board of special inquiry.

The judgment appealed from must, therefore, be reversed and the petition for a writ of habeas corpus denied, with costs against the appellee. So ordered.

Street, Vickers, Butte, and Diaz, JJ., concur.

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