

**TENG CHING, IN HIS OWN BEHALF AND IN BEHALF OF HIS SONS
TENG SAN, TENG LAM AND TENG TONG, PETITIONER AND
APPELLEE, VS. THE INSULAR COLLECTOR OF CUSTOMS,
RESPONDENT AND APPELLANT.**

G. R. No. 42108. October 20, 1934

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

Teng San, Teng Lam and Teng Tong claimed the right to land and reside in this country as the minor children of the petitioner, Teng Ching. After due hearing, a board of special inquiry denied them the right to land and reside here. On appeal, the respondent Insular Collector of Customs confirmed the decision of the board, and ordered that said Teng San, Teng Lam and Teng Tong be returned to their port of embarkation in accordance with law.

This appeal raises the question of whether or not the court below was justified in disregarding said decision and order of the Insular Collector of Customs.

As a condition, precedent to the admission of his minor children, the law requires a Chinese father to establish his exempt status not only by his own testimony but by the testimony of two or more credible witnesses other than Chinese. (Rule 9, subdivision 2, of the Rules of October 1, 1926, of the United States Department of Labor; In re Quan Gin, 61 Fed., 395.) In the instant case, the record discloses no sufficient evidence that Teng Ching had established his exempt status. It is true that he filed an application to the Insular Collector of Customs for indorsement as a resident Chinese merchant, but the record does not show that such application has been approved. Even if we considered the investigation conducted by the board of special inquiry, as relating to his own application for indorsement as a resident Chinese merchant, the evidence presented must be held insufficient to support his application, inasmuch as his testimony before the board was not supplemented by the testimony of two or more credible witnesses other than Chinese, as required by law.

Upon the foregoing considerations, the order appealed from must be set aside, and the petition for a writ of habeas corpus denied, with costs against the appellee. So ordered.

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

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