

HENRY ATHOLL EDWARDS, PETITIONER, VS. H. B. MCCOY, RESPONDENT.

G.R. No. 7474. March 25, 1912

Ponente: MORELAND, J.

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MORELAND, J.:

This is a petition for a writ of habeas corpus. It is based upon the illegal detention of the prisoner by the customs authorities of the Philippine Islands under an order of deportation.

The facts in this case are conceded. It appears that the petitioner, Henry Atholl Edwards, is a British subject and is seeking entrance to the Philippine Islands at the port of Manila. He is the issue of the legal marriage of a Chinese woman of the full blood to a Eurasian—that is, a person of mixed European and Asiatic blood—with no admixture of Chinese. At the time of his emigration he was a resident of the British concession of Amoy, China. His father is and has always been a British subject, with no Chinese blood, and the paternal grandparents of the petitioner were at one time citizens of the United States born therein. The father's name is Frank Hugh Edwards and the mother's name is Lian Niu. The petitioner was born in the British concession in Amoy and resided there at the time of his emigration. The board of special inquiry denied him the right to enter on the ground that he was a person of Chinese race and descent by reason of the fact that his mother was a Chinese woman of the full blood.

The attorney for the respondent objected to the jurisdiction of this court, under the facts and circumstances presented, to inquire into the correctness of the decision of the board of special inquiry. This court has already many times held that the decision of the administrative officers upon the question of the right of an alien to enter the Philippine Islands is final where no abuse of authority of any kind is shown. (*Ngo-Ti vs. Shuster*, 7 Phil. Rep., 355; *Juan Co vs. Rafferty*, 14 Phil. Rep. 235; *U. S. vs. Ju Toy*, 198 U. S., 253; *Pearson vs. Williams*, 202 U. S., 281; *Chin Yow vs. U. S.*, 208 U. S., 8.) It is urged that a hearing having been given the alien by the board of special inquiry, its decision, whether for or against, is not reviewable by the courts in the absence of abuse of discretion. This, generally speaking, is true, as is clearly stated and fully held by the cases above cited. It is also urged that no abuse of authority or discretion by the board in the case before us has been shown.

It is unquestioned that an alien seeking to enter United States territory is entitled to a hearing before he is denied such entrance. What is a hearing within the meaning of the law? Generally speaking, it may be said to be an opportunity given to the alien to present his case; to adduce his evidence tending to establish the rights which he asserts. But, in reality, it is something more. He is not only entitled to present his evidence but he is also entitled to have it considered. The object of a hearing is as much to have evidence considered as it is to present it. The right to adduce evidence, without the corresponding duty on the part of the board to consider it, is vain. Such right is conspicuously futile if the person or persons to whom the evidence is presented can thrust it aside without notice or consideration. The body to which the law permits the presentation of evidence is undoubtedly designed by that law to be a deliberative body. Deliberation is its chief function. Withdraw that attribute and it becomes an aggregation of individuals, governed by no evidence, ruled by no conditions, dedicated to no purpose, bound by no rights, and amenable to no law. A body designed by law to be deliberative which declines to deliberate

abdicates its functions and its decisions are entitled to no more consideration than if made with no hearing at all. While the duty to deliberate does not impose the obligation to decide right, it does imply a necessity which cannot be disregarded, namely, that of having something to support its decision. While the decision of such a body does not have to be right to be effective and final, it must, nevertheless, have something upon which it is based; there must have been something upon which the deliberative function of the board acted. A verdict or decision with absolutely nothing to support it is a nullity, at least when directly attacked, and a body which affirms such a decision does not exercise either deliberative discretion or authority. The same may be said of a finding which is in plain and open contradiction of the conceded and admitted facts of the case. If all the parties to the controversy concede that the person seeking admission is not a Chinese person or a person of Chinese descent but is an English person of English descent and that is the only evidence before the board, a decision that such a person is not entitled to enter is an arbitrary and not a deliberative act, has nothing whatever to support it, and while it might fall within what is called abuse of discretion or authority, it is not so much an abuse as it is an entire absence of discretion of any sort. It is rather an abdication of functions than an abusive use of powers. If a board, stating the facts upon which it proposes to rest its decision, draws a conclusion from those facts legally impossible from any point of view, the drawing of such a conclusion is an arbitrary act, an abuse of discretion, and wholly without authority. This means, really and in substance, that there was no hearing. Under such circumstances this court has jurisdiction to review.

We are of the opinion, however, that this condition does not exist in this case. The facts in this case are conceded. The board has presented them as hereinabove detailed as the basis of its decision. Upon those facts the finding is made that the petitioner herein is a Chinese person, or a person of Chinese descent, within the meaning of the laws of Congress prohibiting the entrance of such person into the territory of the United States. We are of the opinion that that finding must stand. The phrase "Chinese person or person of Chinese descent," as used in the Act of Congress, is very broad; and, under the rules pertaining to the finality of the decisions of the immigration authorities on such questions as laid down by the Federal courts, we do not feel that we are warranted in disturbing the conclusions reached in this case. The conclusion that the petitioner is a person of Chinese descent is not devoid of foundation.

We have read with the interest and care the ably expressed contention of counsel for petitioner that the quantity of blood which one has in his veins, if he is less than the full blood, has nothing to do with the determination of his race; that the race to which one belongs depends upon the race of the father and that that of the mother has no influence in that determination. Counsel call our attention to the case of *Ex parte Reynolds*, Federal Cases, No. 11719, which they rely upon as decisive in the case before us.

We can not bring ourselves to agree with this contention. Quite different rules of law govern the question in hand. The rules which the court applied in the case cited spring from different conditions and are formed by principles different from those which govern the case before us. There the matter dealt with was the jurisdiction of courts over persons within the territory of the United States and subject to its sovereignty. Here we are concerned with the immigration of aliens into the territory of the United States. There the question was one of personal rights. Here it is one of international rights. There the question was purely judicial. Here it is executive and administrative. The principles and rules applicable in one case may be applicable only in small part to the other.

The application for the writ is denied.

Arellano, C. J., Torres, and Johnson, JJ., concur.

Carson and Trent, JJ., concur as to the dispositive part.

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