TAKAO OZAWA v. U S (1922)

Mr. Justice SUTHERLAND delivered the opinion of the Court.

The appellant is a person of the Japanese race born in Japan. He applied, on October 16, 1914, to the United States District Court for the Territory of Hawaii to be admitted as a citizen of the United States. His petition was opposed by the United States District Attorney for the District of Hawaii. Including the period of his residence in Hawaii appellant had continuously resided in the United States for 20 years. He was a graduate of the Berkeley, Cal., high school, had been nearly three years a student in the University of California, had educated his children in American schools, his family had attended American churches and he had maintained the use of the English language in his home. That he was well qualified by character and education for citizenship is conceded.

The District Court of Hawaii, however, held that, having been born in Japan and being of the Japanese race, he was not eligible to naturalization …, and denied the petition. Thereupon the appellant brought the cause to the Circuit Court of Appeals for the Ninth Circuit and that court has certified the following questions, upon which it desires to be instructed:

…

'3. If … naturalization is limited to aliens being free white persons and to aliens of African nativity and to persons of African descent, is one of the Japanese race, born in Japan, under any circumstances eligible to naturalization?'

…

The language of the naturalization laws from 1790 to 1870 had been uniformly such as to deny the privilege of naturalization to an alien unless he came within the description 'free white person.' By section 7 of the act of July 14, 1870…, the naturalization laws were 'extended to aliens of African nativity and to persons of African descent.'

…

Is appellant, therefore, a 'free white person,' within the meaning of that phrase as found in the statute?

On behalf of the appellant it is urged that we should give to this phrase the meaning which it had in the minds of its original framers in 1790 and that it was employed by them for the sole purpose of excluding the black or African race and the Indians then inhabiting this country. It may be true that those two races were alone thought of as being excluded, but to say that they were the only ones within the intent of the statute would be to ignore the affirmative form of the legislation. The provision is not that Negroes and Indians shall be excluded, but it is, in effect, that only free white persons shall be included. The intention was to confer the privilege of citizenship upon that class of

persons whom the fathers knew as white, and to deny it to all who could not be so classified.

…

The question then is: Who are comprehended within the phrase 'free white persons'?

…

Manifestly the test afforded by the mere color of the skin of each individual is impracticable, as that differs greatly among persons of the same race, even among Anglo-Saxons, ranging by imperceptible gradations from the fair blond to the swarthy brunette, the
latter being darker than many of the lighter hued persons of the brown or yellow races. Hence to adopt the color test alone would result in a confused overlapping of races and a gradual merging of one into the other, without any practical line of separation. …
[T]he federal and state courts, in an almost unbroken line, have held that the words 'white person' were meant to indicate only a person of what is popularly known as the Caucasian race.

…

Controversies have arisen and will no doubt arise again in respect of the proper classification of individuals in border line cases. The effect of the conclusion that the words 'white person' means a Caucasian is not to establish a sharp line of demarcation between those who are entitled and those who are not entitled to naturalization, but rather a zone of more or less debatable ground outside of which, upon the one hand, are those clearly eligible, and outside of which, upon the other hand, are those clearly ineligible for citizenship.

…

The appellant, in the case now under consideration, however, is clearly of a race which is not Caucasian and therefore belongs entirely outside the zone on the negative side.

…

The briefs filed on behalf of appellant refer in complimentary terms to the culture and enlightenment of the Japanese people, and with this estimate we have no reason to disagree; but these are matters which cannot enter into our consideration of the questions here at issue.

…

Of course there is not implied-either in the legislation or in our interpretation of it-any suggestion of individual unworthiness or racial inferiority. These considerations are in no

manner involved.

…