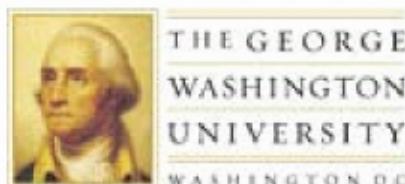


The Burger Court Opinion Writing Database

Rosenberg v. Yee Chien Woo
402 U.S. 49 (1971)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University
Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

March 30, 1971

No. 156 -- Rosenberg v. Woo

Dear Hugo:

Please join me.

Regards,

WB

Mr. Justice Black

cc: The Conference

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

1st DRAFT

SUPREME COURT OF THE UNITED STATES

From: Black, J.

MAR 25 1971

No. 156.—OCTOBER TERM, 1970

Circulated:

Recirculated:

George K. Rosenberg, District
Director, Immigration and
Naturalization Service, Peti- }
tioner, }
v. }
Yee Chien Woo. } On Writ of Certiorari to
the United States
Court of Appeals for
the Ninth Circuit.

[March —, 1971]

MR. JUSTICE BLACK delivered the opinion of the Court.

Respondent, Yee Chien Woo, is a native of Mainland China, a Communist country, who fled that country in 1953 and sought refuge in Hong Kong. He lived in Hong Kong until 1959 when he came to the United States as a visitor to sell merchandise through a concession at a trade fair in Portland, Oregon. After a short stay, Woo returned to Hong Kong only to come back to the United States in 1960 to participate in the San Diego Fair and International Trade Mart to promote his Hong Kong business. Thereafter he remained in the United States although he continued to maintain his clothing business in Hong Kong until 1965. In 1965 Woo's wife and son obtained temporary visitor's permits and joined him in this country. By 1966 all three had overstayed their permits and were no longer authorized to remain in this

¹ "Without expressing any opinion as to why Congress chose to omit the 'firmly resettled' provision in the amendments to the Refugee Relief Act of 1953, this court finds that plaintiff was never 'firmly resettled' and still qualifies as a refugee under the terms of section 203 (a)(7). Accordingly, the District Director erred in denying plaintiff's application." 295 F. Supp. 1370, 1372 (1968).

Move to
p. 2

WJW

3
1, 2, 8
B

To: The Chief Justice
 Mr. Justice Douglas
 Mr. Justice Harlan
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

From: Black, J.

Circulated:

No. 156.—OCTOBER TERM, 1970

MAR 26 1971

Recirculated:

George K. Rosenberg, District
 Director, Immigration and
 Naturalization Service, Peti- } On Writ of Certiorari to
 tioner, } the United States
 v. } Court of Appeals for
 Yee Chien Woo. } the Ninth Circuit.

[March —, 1971]

MR. JUSTICE BLACK delivered the opinion of the Court.

Respondent, Yee Chien Woo, is a native of Mainland China, a Communist country, who fled that country in 1953 and sought refuge in Hong Kong. He lived in Hong Kong until 1959 when he came to the United States as a visitor to sell merchandise through a concession at a trade fair in Portland, Oregon. After a short stay, Woo returned to Hong Kong only to come back to the United States in 1960 to participate in the San Diego Fair and International Trade Mart to promote his Hong Kong business. Thereafter he remained in the United States although he continued to maintain his clothing business in Hong Kong until 1965. In 1965 Woo's wife and son obtained temporary visitor's permits and joined him in this country. By 1966 all three had overstayed their permits and were no longer authorized to remain in this country. After the Immigration and Naturalization Service began deportation proceedings, Woo applied for an immigrant visa claiming a "preference" as an alien who had fled a Communist country fearing persecution as defined in § 203 (a)(7) of the Immigration and Nationality Act of 1952, as amended.

WD

JW 548

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

From: Black, J.

Circulated:

No. 156.—OCTOBER TERM, 1970

MAR 31 '71

Recirculated:

George K. Rosenberg, District
Director, Immigration and
Naturalization Service, Peti- } On Writ of Certiorari to
tioner, } the United States
v. } Court of Appeals for
Yee Chien Woo. } the Ninth Circuit.

[April —, 1971]

MR. JUSTICE BLACK delivered the opinion of the Court.

Respondent, Yee Chien Woo, is a native of Mainland China, a Communist country, who fled that country in 1953 and sought refuge in Hong Kong. He lived in Hong Kong until 1959 when he came to the United States as a visitor to sell merchandise through a concession at a trade fair in Portland, Oregon. After a short stay, Woo returned to Hong Kong only to come back to the United States in 1960 to participate in the San Diego Fair and International Trade Mart to promote his Hong Kong business. Thereafter he remained in the United States although he continued to maintain his clothing business in Hong Kong until 1965. In 1965 Woo's wife and son obtained temporary visitor's permits and joined him in this country. By 1966 all three had overstayed their permits and were no longer authorized to remain in this country. After the Immigration and Naturalization Service began deportation proceedings, Woo applied for an immigrant visa claiming a "preference" as an alien who had fled a Communist country fearing persecution as defined in § 203 (a)(7) of the Immigration and Nationality Act of 1952, as amended.

Stylistic Changes Throughout.

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

4th DRAFT

SUPREME COURT OF THE UNITED STATES

From: Black, J.

Circulated:

No. 156.—OCTOBER TERM, 1970

Recirculated: APR 5 1971

George K. Rosenberg, District
Director, Immigration and
Naturalization Service, Peti- } On Writ of Certiorari to
tioner, } the United States
v. } Court of Appeals for
Yee Chien Woo. } the Ninth Circuit.

[April —, 1971]

MR. JUSTICE BLACK delivered the opinion of the Court.

Respondent, Yee Chien Woo, is a native of Mainland China, a Communist country, who fled that country in 1953 and sought refuge in Hong Kong. He lived in Hong Kong until 1959 when he came to the United States as a visitor to sell merchandise through a concession at a trade fair in Portland, Oregon. After a short stay, he returned to Hong Kong only to come back to the United States in 1960 to participate in the San Diego Fair and International Trade Mart to promote his Hong Kong business. Thereafter he remained in the United States although he continued to maintain his clothing business in Hong Kong until 1965. In 1965 respondent's wife and son obtained temporary visitor's permits and joined him in this country. By 1966 all three had overstayed their permits and were no longer authorized to remain in this country. After the Immigration and Naturalization Service began deportation proceedings, Yee Chien Woo applied for an immigrant visa claiming a "preference" as an alien who had fled a Communist country fearing persecution as defined in § 203 (a)(7) of the Immigration and Nationality Act of 1952, as amended.

WB

Re
JL

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HUGO L. BLACK

April 8, 1971

Dear Thurgood,

Re: No. 156 - Rosenberg v. Woo

Since you wish to join Potter

that, of course, is o.k.

Sincerely,



H. L. B.

Mr. Justice Marshall

cc: Members of the Conference

BP
JRW
To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

5th DRAFT

From: Black, J.

SUPREME COURT OF THE UNITED STATES

Circulated:

No. 156.—OCTOBER TERM, 1970

APR 14 1971

Recirculated:

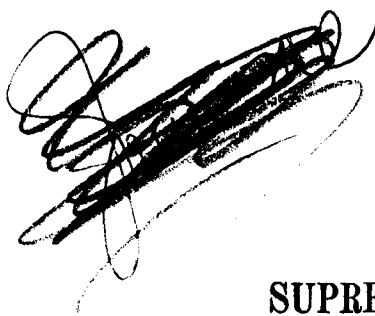
George K. Rosenberg, District
Director, Immigration and
Naturalization Service, Peti-
tioner,
v.
Yee Chien Woo.

On Writ of Certiorari to
the United States
Court of Appeals for
the Ninth Circuit.

[April —, 1971]

MR. JUSTICE BLACK delivered the opinion of the Court.

Respondent, Yee Chien Woo, is a native of Mainland China, a Communist country, who fled that country in 1953 and sought refuge in Hong Kong. He lived in Hong Kong until 1959 when he came to the United States as a visitor to sell merchandise through a concession at a trade fair in Portland, Oregon. After a short stay, he returned to Hong Kong only to come back to the United States in 1960 to participate in the San Diego Fair and International Trade Mart to promote his Hong Kong business. Thereafter he remained in the United States although he continued to maintain his clothing business in Hong Kong until 1965. In 1965 respondent's wife and son obtained temporary visitor's permits and joined him in this country. By 1966 all three had overstayed their permits and were no longer authorized to remain in this country. After the Immigration and Naturalization Service began deportation proceedings, Yee Chien Woo applied for an immigrant visa claiming a "preference" as an alien who had fled a Communist country fearing persecution as defined in § 203 (a)(7) of the Immigration and Nationality Act of 1952, as amended.



To: The Chief Justice
Mr. Justice Black
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 156.—OCTOBER TERM, 1970

3/29/71

George K. Rosenberg, District
Director, Immigration and
Naturalization Service, Peti- }
tioner,
v.
Yee Chien Woo. } On Writ of Certiorari to
the United States
Court of Appeals for
the Ninth Circuit.

[March —, 1971]

MR. JUSTICE DOUGLAS, dissenting.

I had thought we could take judicial notice that those who have "fled" a foreign nation for fear of persecution or death, often make their "flight" in successive stages. Those leaving modern Greece or Iran often stop for long periods at "stations" along the way. For the reasons stated by the Court of Appeals, 419 F. 2d 253-254, I think Congress used the word "fled" in that manner. The result is not to open wide our doors, as the Act limits the number of these refugees who can enter. The fact that a refugee has found "shelter in another nation"—to use the Court's phrase—does not necessarily mean that his aim to reach these shores has in any sense been abandoned.

I would affirm this judgment.

WB

Mr. Justice Black
✓Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

1st DRAFT

From: Brennan, J.

SUPREME COURT OF THE UNITED STATES

Circulated: 4-5-71

No. 156.—OCTOBER TERM, 1970

George K. Rosenberg, District
Director, Immigration and Naturalization Service, Petitioner,
v.
Yee Chien Woo.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

[April —, 1971]

MR. JUSTICE BRENNAN, dissenting.

Respondent Ye Chien Woo applied for an immigrant visa claiming a "seventh preference" under § 203 (a)(7) of the Immigration and Nationality Act of 1952, 8 U. S. C. § 1153 (a)(7) (Supp. V, 1970). The statute extends the preference to aliens who

"satisfy an Immigration and Naturalization Service officer at an examination in any non-Communist or non-Communist-dominated country, . . . that (i) because of fear of persecution on account of race, religion, or political opinion they have fled . . . from any Communist or Communist-dominated country or area . . . , and (ii) are unable or unwilling to return to such country or area on account of race, religion, or political opinion, and (iii) are not nationals of the countries or areas in which their application for conditional entry is made."

Thus, in unambiguous and unqualified terms, the statute makes eligible for the preference an alien who has fled persecution, who is unable or unwilling to return to his homeland due to that persecution, and who has not become a national of another country. Respondent precisely fits this description. It is undisputed that he fled from Communist China due to persecution, is unwilling

Dear
from
me
WWD

B

Stylistic Changes Throughout.

McCART
223

5

th DRAFT

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

SUPREME COURT OF THE UNITED STATES

No. 156.—OCTOBER TERM, 1970

From: Black, J.

Circulated:

APR 5 1971

Recirculated:

George K. Rosenberg, District
Director, Immigration and
Naturalization Service, Peti-
tioner,
v.
Yee Chien Woo.

On Writ of Certiorari to
the United States
Court of Appeals for
the Ninth Circuit.

[April —, 1971]

MR. JUSTICE BLACK delivered the opinion of the Court.

Respondent, Yee Chien Woo, is a native of Mainland China, a Communist country, who fled that country in 1953 and sought refuge in Hong Kong. He lived in Hong Kong until 1959 when he came to the United States as a visitor to sell merchandise through a concession at a trade fair in Portland, Oregon. After a short stay, he returned to Hong Kong only to come back to the United States in 1960 to participate in the San Diego Fair and International Trade Mart to promote his Hong Kong business. Thereafter he remained in the United States although he continued to maintain his clothing business in Hong Kong until 1965. In 1965 respondent's wife and son obtained temporary visitor's permits and joined him in this country. By 1966 all three had overstayed their permits and were no longer authorized to remain in this country. After the Immigration and Naturalization Service began deportation proceedings, Yee Chien Woo applied for an immigrant visa claiming a "preference" as an alien who had fled a Communist country fearing persecution as defined in § 203 (a)(7) of the Immigration and Nationality Act of 1952, as amended.

Dear (fifth)
Please 9
withdraw
deport
join
Brennan
to well
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change
join
C
e/w

April 7, 1971

Dear Bill:

I have your note joing me
in my dissent in No. 156 - Rosenberg v.
Woo. But since you and Potter have a
much more adequate and complete state-
ment of the position to which I adhere,
I have withdrawn my dissent and joined
the two of you. I have so notified Hugo
because he noted my dissent in a footnote.

William O. Douglas

Mr. Justice Brennan

WJ
Adm 1487

April 2, 1971

Re: No. 186 - Rosemeyer v. Yee Chien Woo

Dear Hugo:

I agree with and am glad to join your opinion
in this case.

Sincerely,

J. M. H.

Mr. Justice Black

CC: The Conference

4/2/71
RM

Mr. Justice Black
✓Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

1st DRAFT

From: Brennan, J.

SUPREME COURT OF THE UNITED STATES

Circulated: 4-5-71

No. 156.—OCTOBER TERM, 1970

Enclosed

George K. Rosenberg, District
Director, Immigration and
Naturalization Service, Peti- } On Writ of Certiorari to
tioner, } the United States
v. } Court of Appeals for
Yee Chien Woo. } the Ninth Circuit.

[April —, 1971]

O dear
from
me

WV

MR. JUSTICE BRENNAN, dissenting.

Respondent Ye Chien Woo applied for an immigrant visa claiming a "seventh preference" under § 203 (a)(7) of the Immigration and Nationality Act of 1952, 8 U. S. C. § 1153 (a)(7) (Supp. V, 1970). The statute extends the preference to aliens who

"satisfy an Immigration and Naturalization Service officer at an examination in any non-Communist or non-Communist-dominated country, . . . that (i) because of fear of persecution on account of race, religion, or political opinion they have fled . . . from any Communist or Communist-dominated country or area . . . , and (ii) are unable or unwilling to return to such country or area on account of race, religion, or political opinion, and (iii) are not nationals of the countries or areas in which their application for conditional entry is made."

Thus, in unambiguous and unqualified terms, the statute makes eligible for the preference an alien who has fled persecution, who is unable or unwilling to return to his homeland due to that persecution, and who has not become a national of another country. Respondent precisely fits this description. It is undisputed that he fled from Communist China due to persecution, is unwilling

WB

Ja

2nd DRAFT

To: The Chief Justice
 Mr. Justice Black
 Mr. Justice Douglas
 Mr. Justice Harlan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun

SUPREME COURT OF THE UNITED STATES

From: Brennan, J.

No. 156.—OCTOBER TERM, 1970

Circulated:

George K. Rosenberg, District Director, Immigration and Naturalization Service. Petitioner, *v.* Yee Chien Woo.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

Recirculated: 4/6/71

[April —, 1971]

MR. JUSTICE BRENNAN, dissenting.

Respondent Ye Chien Woo applied for an immigrant visa claiming a "seventh preference" under § 203 (a)(7) of the Immigration and Nationality Act of 1952, 8 U. S. C. § 1153 (a)(7) (Supp. V, 1970). The statute extends the preference to aliens who

"satisfy an Immigration and Naturalization Service officer at an examination in any non-Communist or non-Communist-dominated country, . . . that (i) because of fear of persecution on account of race, religion, or political opinion they have fled . . . from any Communist or Communist-dominated country or area . . . , and (ii) are unable or unwilling to return to such country or area on account of race, religion, or political opinion, and (iii) are not nationals of the countries or areas in which their application for conditional entry is made."

Thus, in unambiguous and unqualified terms, the statute makes eligible for the preference an alien who has fled persecution, who is unable or unwilling to return to his homeland due to that persecution, and who has not become a national of another country. Respondent precisely fits this description. It is undisputed that he fled from Communist China due to persecution, is unwilling

✓ *Dear Justice Douglas*
You voted with H. B. dissent
here Supreme Court of the United States
Washington, D. C. 20543
CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

April 6, 1971

RE: No. 156 - Rosenberg v. Yee Chien Woo

Dear Bill:

Will you please join me in your dissent
in the above.

Sincerely,



W. J. B. Jr.

Mr. Justice Douglas

cc: The Conference

B

Mr. Justice Blackmun
Mr. Justice Bla.
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

Mr. Justice Brennan, J.

No. 156.—OCTOBER TERM, 1970

Argued: 4/7/71

George K. Rosenberg, District
Director, Immigration and
Naturalization Service, Peti-
tioner,
v.
Yee Chien Woo.

On Writ of Certiorari to
the United States
Court of Appeals for
the Ninth Circuit.

[April —, 1971]

MR. JUSTICE BRENNAN, with whom MR. JUSTICE DOUGLAS joins, dissenting.

Respondent Ye Chien Woo applied for an immigrant visa claiming a "seventh preference" under § 203 (a)(7) of the Immigration and Nationality Act of 1952, 8 U. S. C. § 1153 (a)(7) (Supp. V, 1970). The statute extends the preference to aliens who

"satisfy an Immigration and Naturalization Service officer at an examination in any non-Communist or non-Communist-dominated country, . . . that (i) because of fear of persecution on account of race, religion, or political opinion they have fled . . . from any Communist or Communist-dominated country or area . . . , and (ii) are unable or unwilling to return to such country or area on account of race, religion, or political opinion, and (iii) are not nationals of the countries or areas in which their application for conditional entry is made."

Thus, in unambiguous and unqualified terms, the statute makes eligible for the preference an alien who has fled persecution, who is unable or unwilling to return to his homeland due to that persecution, and who has not become a national of another country. Respondent precisely fits this description. It is undisputed that he fled

WV

Supreme Court of the United States
Washington, D. C. 20543

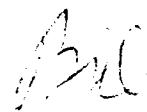
CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR. April 7, 1971

RE: No. 156 - Rosenberg v. Yee Chien Woo

Dear Bill:

Thanks for your note of April 7 in the above. I think Potter's done a better job than I have and so I am also withdrawing my dissent and joining him as per the enclosed.

Sincerely,



Mr. Justice Douglas

R
Signed 2/17
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

April 7, 1971

RE: No. 156 - Rosenberg v. Yee Chien Woo

Dear Potter:

Since your dissent expands upon the thoughts expressed in mine, and Bill Douglas has withdrawn his dissent, I am going to withdraw mine and join you, if I may.

Sincerely,

Bill

W. J. B. Jr.

Mr. Justice Stewart

cc: The Conference

To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

1st DRAFT

SUPREME COURT OF THE UNITED STATES

From: Stewart, J.

No. 156.—OCTOBER TERM, 1970

APR 6 1971
Circulated:

George K. Rosenberg, District
Director, Immigration and
Naturalization Service, Peti-
tioner,
v.
Yee Chien Woo.

Recirculated:

On Writ of Certiorari to
the United States
Court of Appeals for
the Ninth Circuit.

[April —, 1971]

MR. JUSTICE STEWART, dissenting.

On March 8, 1966, the respondent, who fled mainland China for Hong Kong in 1953 and has resided in the United States since May 22, 1960, filed with the Immigration Service an application for adjustment of status pursuant to § 203 (a)(7) of the Immigration and Nationality Act, as amended, 8 U. S. C. § 1153 (a)(7). By the terms of § 203 (a)(7) applicants for adjustment of status are required to show:

1. that they "have been continuously physically present in the United States for a period of at least two years prior to application for adjustment of status;"
2. that "because of persecution or fear of persecution on account of race, religion, or political opinion they have fled (I) from any Communist or Communist-dominated country or area . . . ;"
3. that they "are unable or unwilling to return to such country or area on account of race, religion, or political opinion;"
4. that they "are not nationals of the countries or areas in which their application for conditional entry is made"

The District Director denied the respondent's application for adjustment of status because of "intervening

WB

To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

2nd DRAFT

From: Stewart, J.

SUPREME COURT OF THE UNITED STATES

Circulated:

No. 156.—OCTOBER TERM, 1970

Recirculated: APR 8 1971

George K. Rosenberg, District
Director, Immigration and
Naturalization Service, Peti-
tioner,
v.
Yee Chien Woo.

On Writ of Certiorari to
the United States
Court of Appeals for
the Ninth Circuit.

[April —, 1971]

MR. JUSTICE STEWART, with whom MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, and MR. JUSTICE MARSHALL join, dissenting.

On March 8, 1966, the respondent, who fled mainland China for Hong Kong in 1953 and has resided in the United States since May 22, 1960, filed with the Immigration Service an application for adjustment of status pursuant to § 203 (a)(7) of the Immigration and Nationality Act, as amended, 8 U. S. C. § 1153 (a)(7). By the terms of § 203 (a)(7) applicants for adjustment of status are required to show:

1. that they "have been continuously physically present in the United States for a period of at least two years prior to application for adjustment of status;"
2. that "because of persecution or fear of persecution on account of race, religion, or political opinion they have fled (I) from any Communist or Communist-dominated country or area . . . ;"
3. that they "are unable or unwilling to return to such country or area on account of race, religion, or political opinion;"
4. that they "are not nationals of the countries or areas in which their application for conditional entry is made"

p. 3

3rd DRAFT

To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

From: Stewart, J.

No. 156.—OCTOBER TERM, 1970

Circulated:

Recirculated: APR 16 1971

George K. Rosenberg, District
Director, Immigration and
Naturalization Service, Peti- }
tioner,
v.
Yee Chien Woo.

On Writ of Certiorari to
the United States
Court of Appeals for
the Ninth Circuit.

[April —, 1971]

MR. JUSTICE STEWART, with whom MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, and MR. JUSTICE MARSHALL join, dissenting.

On March 8, 1966, the respondent, who fled mainland China for Hong Kong in 1953 and has resided in the United States since May 22, 1960, filed with the Immigration Service an application for adjustment of status pursuant to § 203 (a)(7) of the Immigration and Nationality Act, as amended, 8 U. S. C. § 1153 (a)(7). By the terms of § 203 (a)(7) applicants for adjustment of status are required to show:

1. that they "have been continuously physically present in the United States for a period of at least two years prior to application for adjustment of status;"
2. that "because of persecution or fear of persecution on account of race, religion, or political opinion they have fled (I) from any Communist or Communist-dominated country or area . . . ;"
3. that they "are unable or unwilling to return to such country or area on account of race, religion, or political opinion;"
4. that they "are not nationals of the countries or areas in which their application for conditional entry is made"

Black's papers
No. 156 5
1970

Supreme Court of the United States

Memorandum

-----, 19-----

Hugo -
I dissent in
Rosenburg, joined
by WOD, WJB,
and T.M.

P.S.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 6, 1971

Re: No. 156 - Rosenberg v. Yee
Chien Woo

Dear Hugo:

Please join me.

Sincerely,



Mr. Justice Black

Copies to Conference



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 29, 1971

Re: No. 156 - Rosenberg v. Yee Chien Woo

Dear Hugo:

Please join me.

Sincerely,


T.M.

Mr. Justice Black

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 7, 1971

Re: No. 156 - Rosenberg v. Yee Chien Woo

Dear Hugo:

Attached is my join in Potter's opinion in this case. As I read the votes you still have a Court, and I would rest more easily if you will permit me to withdraw my concurrence in your opinion and join in Potter Stewart's opinion.

Sincerely,


T.M.

Mr. Justice Black

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20530

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 7, 1971

Re: No. 156 - Rosenberg v. Yee Chien Woe

Dear Potter:

I voted the other way and originally joined Hugo's opinion in this case. I have been worried ever since. Your dissenting opinion has finally convinced me that I was wrong. Therefore, please join me in your dissent.

Sincerely,


T.M.

Mr. Justice Stewart

cc: The Conference

March 29, 1971

Re: No. 156 - Rosenberg, District Director v. Wee

Dear Hugo:

Your opinion is very persuasive, and I am pleased
to join it.

Sincerely,

H. A. B.

Mr. Justice Black

cc: The Conference