

The Burger Court Opinion Writing Database

Astrup v. Immigration & Naturalization Service

402 U.S. 509 (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

May 20, 1971

CHAMBERS OF
THE CHIEF JUSTICE

No. 840 - Astrup v. Imm. & Naturalization Service

Dear Hugo:

I do not really agree but the case is narrow and unimportant except to this one man.

In my view he made what turned out to be a "bad bargain" and ought to be held to it.

But I am very pliable this week and I will join up with you in spite of my reservations.

Regards,

WSB

Mr. Justice Black

cc: The Conference

BP
5/17

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

From: Black, J.

SUPREME COURT OF THE UNITED STATES

Recirculated: MAY 13 1971

Recirculated: _____

No. 840.—OCTOBER TERM, 1970

Ib Otto Astrup, Petitioner, } On Writ of Certiorari to the
v. } United States Court of
Immigration and Naturali- } Appeals for the Ninth
zation Service. } Circuit.

[May —, 1971]

MR. JUSTICE BLACK delivered the opinion of the Court.

The issue in this case is exceedingly simple. By signing SSS Form 130—Application by Alien for Relief from Training and Service in the Armed Forces—the petitioner, Ib Otto Astrup, a native of Denmark, agreed to give up his right to become an American citizen, and in exchange, the United States, pursuant to § 4 (a) of the Selective Service Act of 1948, 62 Stat. 605, 50 U. S. C. App. § 454 (a) (1950), agreed to give up the right to induct Astrup into the United States armed forces. Congress later repealed the law under which Astrup was exempted from military service, reneging on its part of the bargain with him.¹ Universal Military Training and Service Act § 4 (a), 65 Stat. 76, 50 U. S. C. App. § 454 (a) (1964). Thereafter the Selective Service System at-

¹ Astrup was lawfully admitted to the United States for permanent residence on February 20, 1950. On November 3, 1950, he executed SSS Form 130, requesting an exemption from military service on the ground of alienage. At that time the Selective Service Act of 1948, § 4 (a), 62 Stat. 605, 50 U. S. C. App. § 454 (a) (1950), provided such an exemption for any alien. The Universal Military Training and Service Act § 4 (a), 65 Stat. 76, 50 U. S. C. App. § 454, which became effective June 19, 1951, amended the earlier provision relating to exemptions for aliens so that the exemption was not available to aliens who were permanent residents of this country.

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

SSSFCNOC DE ADV IN

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

1st DRAFT

From: Black, J.

MAY 13 1971

SUPREME COURT OF THE UNITED STATES

Circulated: _____

Recirculated: _____

No. 840.—OCTOBER TERM, 1970

Ib Otto Astrup, Petitioner, } On Writ of Certiorari to the
v. } United States Court of
Immigration and Naturali- } Appeals for the Ninth
zation Service. } Circuit.

[May —, 1971]

MR. JUSTICE BLACK delivered the opinion of the Court.

The issue in this case is exceedingly simple. By signing SSS Form 130—Application by Alien for Relief from Training and Service in the Armed Forces—the petitioner, Ib Otto Astrup, a native of Denmark, agreed to give up his right to become an American citizen, and in exchange, the United States, pursuant to § 4 (a) of the Selective Service Act of 1948, 62 Stat. 605, 50 U. S. C. App. § 454 (a) (1950), agreed to give up the right to induct Astrup into the United States armed forces. Congress later repealed the law under which Astrup was exempted from military service, reneging on its part of the bargain with him.¹ Universal Military Training and Service Act § 4 (a), 65 Stat. 76, 50 U. S. C. App. § 454 (a) (1964). Thereafter the Selective Service System at-

¹ Astrup was lawfully admitted to the United States for permanent residence on February 20, 1950. On November 3, 1950, he executed SSS Form 130, requesting an exemption from military service on the ground of alienage. At that time the Selective Service Act of 1948, § 4 (a), 62 Stat. 605, 50 U. S. C. App. § 454 (a) (1950), provided such an exemption for any alien. The Universal Military Training and Service Act § 4 (a), 65 Stat. 76, 50 U. S. C. App. § 454, which became effective June 19, 1951, amended the earlier provision relating to exemptions for aliens so that the exemption was not available to aliens who were permanent residents of this country.

See (Supp)
Pages
600

Reproduced from the collections of the Manuscript Division, Library of Congress

MR
VR

May 18, 1971

Re: No. 840 : Astrup v. INS

Dear Hugo:

I am glad to join you.

Sincerely,

J. M. H.

Mr. Justice Black

CC: The Conference

May 14, 1971

RE: No. 840 - Astrup v. Immigration and
Naturalization Service

Dear Hugo:

I agree.

Sincerely,

Bu!

W. J. B. Jr.

Mr. Justice Black

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

THE ADVANCEMENT OF CONCRETE

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 14, 1971

No. 840 - Astrup v. INS

Dear Hugo,

I am glad to join your opinion for
the Court in this case.

Sincerely yours,

P.S.

Mr. Justice Black

Copies to the Conference

May 14, 1971

Re: No. 840 - Astrup v. Immigration
and Naturalization Service

Dear Hugo:

Please join me.

Sincerely,

B.R.W.

Mr. Justice Black

cc: Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 17, 1971

Re: No. 840 - Astrup v. I.N.S.

Dear Hugo:

Please join me.

Sincerely,


T.M.

Mr. Justice Black

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

SECTION OF ADVANCE

May 17, 1971

Re. No. B40 - Astrop v. INS

Dear Hugo:

I agree.

Sincerely,

H.A.B.

Mr. Justice Black

cc: The Conference

[Handwritten signature]