

The Burger Court Opinion Writing Database

Reid v. INS
420 U.S. 619 (1975)

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



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

CHAMBERS OF
THE CHIEF JUSTICE

March 13, 1975

PERSONAL

Re: No. 73-1541 - Reid v. Immigration and Naturalization Service

Dear Bill:

I am prepared to join you in the above. However, I wonder if it is not worthwhile to pursue the Errico distinction by reference to the difference between an assertion of mechanical skills -- essentially an opinion -- and a fraudulent misrepresentation of citizenship. The Errico misrepresentation did not avoid a border inspection or inquiry; the instant one did.

I will go along with whatever you decide.

Regards,



Mr. Justice Rehnquist

HOOVER INSTITUTION

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

CHAMBERS OF
THE CHIEF JUSTICE

March 13, 1975

Re: No. 73-1541 - Reid v. INS

Dear Bill:

I join your proposed opinion dated March 3, 1975.

Regards,

WB

Mr. Justice Rehnquist

Copies to the Conference

CHAMBERS OF
JUSTICE W. J. BRENNAN, JR.

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

February 18, 1975

MEMORANDUM TO THE CONFERENCE

RE: No. 73-1541 Reid, et al. v. Immig. and Nat.
Service

In due course I shall circulate a dissent
in the above.

Sincerely,

Brennan

Chlorophyll a, b, and c

Recirculated:

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-1541

Robert Reid and Nadia Alice
Reid, Petitioners,
v.
Immigration and Naturaliza-
tion Service, } On Writ of Certiorari to
the United States Court
of Appeals for the Sec-
ond Circuit.

[February —, 1975]

MR. JUSTICE BRENNAN, dissenting.

In *Immigration and Naturalization Service v. Errico*, 385 U. S. 214 (1966), respondent evaded quota restrictions by falsely claiming to be a skilled mechanic. Once in this country, he became the parent of a United States citizen. We found Errico's deportation barred by § 241 (f) of the Immigration and Nationality Act. In the instant case, petitioners evaded quota restrictions by falsely claiming United States citizenship. After settling here, they too became parents of United States citizens. Yet the Court today finds that § 241 (f) is no bar to their deportation. Because I find no material difference between the instant case and *Errico*, I dissent.

Section 241 (f) of the Immigration and Nationality Act provides:

"The provisions of this section relating to the deportation of aliens within the United States on the ground that they were excludable at the time of entry as aliens who have sought to procure, or have procured visas or other documentation, or entry into the United States by fraud or misrepresentation shall not apply to an alien otherwise admissible at the time of entry who is the spouse, parent, or a

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

CHAMBERS OF
JUSTICE POTTER STEWART

February 19, 1975

No. 73-1541, Reid v. INS

Dear Bill,

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

Sincerely yours,

R. S.

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

February 25, 1975

Re: No. 73-1541 - Reid v. Immigration and
Naturalization Service

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Rehnquist

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 27, 1975

Re: No. 73-1541 -- Robert Reid and Nadia Alice Reid v.
Immigration and Naturalization Service

Dear Bill:

Please join me in your dissent.

Sincerely,

T. M.
T. M.

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 24, 1975

Re: No. 73-1541 - Reid v. INS

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

February 25, 1975

No. 73-1541 Reid v. Immigration and
Naturalization Service

Dear Bill:

Please join me.

Sincerely,

Lewis

Mr. Justice Rehnquist

lfp/ss

cc: The Conference

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

From: Rehnquist, J.

Circulated: 2-17-75

Distributed: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-1541

Robert Reid and Nadia Alice
Reid, Petitioners,
v.
Immigration and Naturaliza-
tion Service. On Writ of Certiorari to
the United States Court
of Appeals for the Sec-
ond Circuit.

[February —, 1975]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

Petitioners Robert and Nadia Reid, husband and wife, are citizens of British Honduras. Robert Reid entered the United States at Chula Vista, California, in November 1968, falsely representing himself to be a citizen of the United States. Nadia Reid, employing the same technique, entered at the Chula Vista port ^{two months} later. Petitioners have two children who were born in the United States since their entry.

In November 1971, the Immigration and Naturalization Service ("INS") began deportation proceedings against petitioners, which were resolved adversely to them first by a special inquiry officer and then by the Board of Immigration Appeals. On petition for review, the United States Court of Appeals for the Second Circuit by a divided vote affirmed the finding of deportability. We granted certiorari to resolve the conflict between this holding and the contrary conclusion of the Court of Appeals for the Ninth Circuit in *Lee Fook Chuey v. INS*, 439 F. 2d 244 (1971). — U. S. —.

of entry

¹ See, e. g., *United States v. Osuna-Picos*, 443 F. 2d 907 (CA9 1971); *Gonzalez de Moreno v. INS*, 492 F. 2d 532 (CA5 1974);

STYLISTIC CHANGES

129,12

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

Rehnquist, J.

2-17-75

3-3-75

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-1541

Robert Reid and Nadia Alice
Reid, Petitioners,
v.
Immigration and Naturaliza-
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the United States Court
of Appeals for the Sec-
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¹ See, e. g., *United States v. Osuna-Picos*, 443 F. 2d 907 (CA9 1971); *Gonzalez de Moreno v. INS*, 492 F. 2d 532 (CA5 1974);

March 13, 1975

PERSONAL

Re: No. 73-1541 - Reid v. INS

Dear Chief:

I have received your note of today about my opinion for the Court in this case. I think the long quotation that I have in my opinion from Judge Aldrich, on pages 5-6, makes about as well as I think can be made the point which you stress in the last sentence of your note, and which I regard as the principal point in the case. I think the way the opinion is now drafted results in a more substantial cutback on Errico than if we were to go beyond the suggestion in the last sentence of your note, and stress factual differences such as Errico's misrepresentation being basically a matter of opinion.

Unless you feel more strongly than you indicate in your note, I think the opinion as presently drafted serves the purpose we both wanted to serve, and I would be inclined to leave it alone.

Sincerely,

WHR

The Chief Justice

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 25, 1975

MEMORANDUM TO THE CONFERENCE:

Re: Hold for Reid v. Immigration & Naturalization Service, No. 73-1541

The only hold for Reid is Immigration & Naturalization Service v. Echeverria, No. 73-1917. In this case, a Mexican citizen, respondent here, entered the United States at the Calexico, California Port of Entry by falsely claiming to be a United States citizen: he presented the birth certificate of his brother, a deceased United States citizen, as his own. The INS brought deportation proceedings against resp charging that he was deportable under § 241(a) (1) of the Immigration and Naturalization Act, 8 U.S.C. § 1251(a) (1), as an alien who entered the United States without proper documentation in violation of § 212(a) (20) of the Act, 8 U.S.C. § 1182(a) (20). Resp conceded all material allegations of the INS but argued that he was saved from deportation by § 241(f) of the Act, 8 U.S.C. § 1251(f) since he was the husband of a United States citizen and the father of two children born in the United States.

The Board of Immigration Appeals held resp deportable, holding § 241(f) unavailable to one who has evaded the visa issuance and inspection process by means of a fraudulent claim of citizenship. The Board recognized the conflict between its holding in the instant case as that of the 9th Circuit in Lee Fook Chuey v. INS, 439 F.2d 244. On appeal the 9th Circuit reversed in a short memorandum opinion, relying on its decision in Lee Fook Chuey, supra. The government sought cert here and the case was held for Reid.

Wm. O. Taylor
OC '74