

6:9

Cons. no. 25294-G

ABO & FURUYA V. CLARK

1948

78/177

C



ORIGINAL  
FILED

AUG 17 1948

File Clerk, U. S. District Court  
San Francisco

AUG 17 1948

ORIGINAL  
FILED

WAYNE M. COLLINS  
1701 Mills Tower  
San Francisco 4, Calif.  
Garfield 1-1218  
Attorney for Plaintiffs

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TADAYASU ABO, et al., etc.,

Plaintiffs,

No. 25294-G

-vs-

Cons. No. 25294-G

TOM CLARK, etc., et al.,

Defendants.

MARY KANANE FURUYA, et al., etc.,

Plaintiffs,

No. 25295-G

-vs-

Cons. No. 25294-G

TOM CLARK, etc., et al.,

Defendants.

To the Defendants and to Tom C. Clark, Attorney General and  
Frank J. Hennessy, U. S. Attorney, Attorneys for Defendants:

NOTICE OF ORDER DENYING MOTION TO DISMISS

You and each of you will please take notice that on Monday,  
August 16, 1948, the above-entitled court duly made and entered  
its order herein denying the motion heretofore made by defend-  
ants to dismiss this action as to certain individual plaintiffs  
herein which motion was filed by defendants on July 27, 1948.

Wayne M. Collins  
Attorney for Plaintiffs

Receipt of a copy of the above ~~Notice of Order Denying Motion~~  
~~To Dismiss~~ is hereby admitted this 17th day of August 1948.

TOM C. CLARK, Attorney General of the U.S.  
FRANK J. HENNESSY, U.S. Attorney

By:

Assistant U. S. Attorney  
Attorneys for Defendants



ORIGINAL  
FILED

AUG 14 1948

File Clerk, U. S. Dist. Court  
San Francisco

1 WAYNE M. COLLINS,  
2 1701 Mills Tower,  
3 San Francisco 4, Calif.  
4 GARfield 1-1218  
5 Attorney for Plaintiffs.

7 IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
9 -----

9 TADAYASU ABO, et al., etc.,

10 Plaintiffs,

No. 25294-G

11 -vs-

Cons. No. 25294-G

12 TOM CLARK, etc., et al.,

13 Defendants.

14 -----  
15 MARY KANAME FURUYA, et al., etc.,

16 Plaintiffs,

No. 25295-G

17 -vs-

Cons. No. 25294-G

18 TOM CLARK, etc., et al.,

19 Defendants.  
20 -----

21 PLAINTIFFS' OPPOSITION TO MOTION TO DISMISS

22 Plaintiffs named in the defendants' motion to dismiss oppose  
23 said motion and deny, generally and specifically, the assertions  
24 made in those motions. They assert that the defendant Attorney  
25 General, as alleged in the amended complaints and as proved by the  
26 evidence, by his acceptance of plaintiffs' renunciations, executed  
27 under duress, and in issuing orders approving them and in notifying  
28 them thereof deprived each plaintiff of his or her U.S. citizenship  
29 and that ever since then he and the other defendants herein have  
30 and still deny their said citizenship and have deprived and still  
31 deprive each of the plaintiffs of each and all of the rights,  
32



1 liberties, privileges and immunities of said citizenship.

2 Said plaintiffs further assert that each of said plaintiffs  
3 by written stipulations of the parties upon which court orders  
4 were made, were joined as parties plaintiff herein, pursuant to  
5 rules of court, and assert that this court had and has jurisdiction  
6 over them and is authorized and empowered to grant them the relief  
7 sought.

8 Wherefore, said plaintiffs pray that the defendants' motions  
9 be denied.

10  
11 Wayne M. Collins  
12 Attorney for Plaintiffs.  
13  
14  
15  
16  
17

18 Receipt of a copy of the above Opposition and Points and  
19 Authorities in Support thereof is admitted the 14th day of  
20 August, 1948.

21 TOM C. CLARK, Attorney General of the U.S.  
22 FRANK J. HENNESSY, U.S. Attorney.

23 By:

24 Assistant U.S. Attorney.

25 Attorneys for Defendants.  
26  
27  
28  
29  
30  
31  
32



POINTS AND AUTHORITIES

All of the defendants named in the amended complaint appeared in the suits. The defendants, Attorney General, U.S. Attorney and the District Director, USI&NS, filed their answers thereto. The other defendants failed to file responsive pleadings.

Thereafter, with the full knowledge and consent of the answering defendants and with the approval of the Department of Justice several hundred additional persons were joined as parties plaintiff on written stipulations upon which court orders issued. The defendants' present motion is designed to repudiate those stipulations which were executed and the orders which issued thereon.

These actions are class actions brought under Rule 23(1) and (3) and Rule 20 RCP relating to permissive joinder. Parties are joinable at any stage of the proceedings under Rule 21.

The causes of action in the amended complaints contain three inherent causes of action, viz.,

1. Suits to cancel instruments, namely written renunciations received by the Attorney General and the approval orders he issued thereon. Equitable jurisdiction to cancel such documents is conferred upon the district courts by Title 28 USCA, Sec. 41(1)(a), the cases arising "under the Constitution or laws of the United States", to-wit the 14th Amendment conferring citizenship and the statute, Title 8 USCA, Sec. 801(1), under which the Attorney General acted in taking the written renunciations and ordering them approved, all as alleged in the amended complaints. The United States is not a party to the suits despite the defendants' assertion that it is.

2. Actions for declaratory relief under Title 28 USCA, Sec. 400 which provides that "In cases of actual controversy - the courts shall have power upon petition -- to declare rights---,"  
to  
the rights herein/be declared are whether the renunciations and



1 the renunciation statute are valid and whether or not the plaintiffs  
2 are citizens.

3  
4 3. Actions for a declaration of nationality as provided by  
5 Title 8 USCA, Sec. 903(1), which authorizes a person who has been  
6 denied his citizenship or citizenship rights to sue the head of  
7 the denying agency who denies his nationality for a judgment declar-  
8 ing him to be such a national. The complaints (Par. VII, pg. 6),  
9 allege the defendants not only detained the citizen plaintiffs but  
10 "treated and still treat them as alien enemies" and, in paragraph  
11 VIII, pg. 8, lines 12 to 26, the invalidity thereof for depriving  
12 each plaintiff of his citizenship and of all his rights, liberties,  
13 etc., thereof, and in paragraph III on page 9 the unlawful discrimi-  
14 nation against plaintiffs, and, in (Par. VI, pg.8) of the com-  
15 plaints herein, used as affidavits upon submission of the cause,  
16 it is alleged that the orders of approval issued to plaintiffs  
17 by the defendant Attorney General declared that the plaintiffs no  
18 longer were citizens and were not entitled to any of the rights  
19 and privileges of citizenship. In the answers to the amended  
20 complaint (par. III) the answering defendants deny the citizenship  
21 of the plaintiffs and allege them to be dangerous aliens and that  
22 the defendant Attorney General made an official finding of fact  
23 to that effect.

24 The Attorney General appeared in this action as did the  
25 U.S. Attorney and the District Director, his representatives. It  
26 is the Attorney General who deprived them of citizenship and of  
27 citizenship rights and the other defendants act under his direction.

28  
29 \_\_\_\_\_  
30 Wayne M. Collins,  
31 1701 Mills Tower  
32 San Francisco 4, Calif.  
Garfield 1-1218.

Attorney for Plaintiffs.



*Wm C's copy*

*Filed Sept. 27, 1948*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TADAYASU ABO, et al., etc.,	)	
	)	
Plaintiffs,	)	No. 25294-G
	)	
-vs-	)	Cons. No. 25294-G
	)	
TOM CLARK, etc., et al.,	)	
	)	
Defendants.	)	
	)	
-----	)	

INTERLOCUTORY ORDER, JUDGMENT AND DECREE

This cause, together with that in its companion proceeding No. 25295-G heretofore consolidated with this proceeding under No. 25294-G, having heretofore been submitted to this Court for decision on the merits pursuant to written stipulation entered into between the parties on October 10, 1947, and the order of this Court thereon made on said date, after oral argument had and after briefs of the parties had been filed herein, and this Court being duly advised in the premises and the cause, facts, matters, issues and law pertinent thereto thereafter having been duly considered by this Court and this Court having filed herein its written Opinion herein, this Court now finds, orders, adjudges and decrees as follows:

(1) IT IS ORDERED that the defendants herein may have to



1 and including one hundred twenty (120) days from and after the  
2 filing and entry of this interlocutory order, judgment and  
3 decree, unless they earlier consent in writing herein to shorten  
4 said period of time or waive such a right, within which they  
5 may, in an exercise of good faith, by a writing or writings to  
6 be filed herein, designate any of the plaintiffs herein for  
7 special individual further hearings herein, upon their election,  
8 evidenced by any such designation, at which to produce admissible  
9 evidence relevant to the issues herein, other than that hereto-  
10 fore offered or introduced in evidence herein on the issues  
11 involved, against each such designated plaintiff proving or  
12 tending to prove that each such designated plaintiff renounced  
13 United States nationality and citizenship of his or her own  
14 free will, choice, desire and agency and that such renunciation  
15 was not caused by or affected by the duress, menace, coercion,  
16 intimidation, fraud and the undue influence under which he or  
17 she knowingly was held and subjected to at the time and place  
18 of renunciation by the United States Government, the defendants,  
19 the representatives, agents, servants or employees of said govern-  
20 ment or by the combined concurrent duress, menace, coercion,  
21 intimidation, fraud and the undue influence under which each  
22 was held and to which each was subjected at said time and place  
23 by alien-led gangs which and individuals who operated in and  
24 knowingly were permitted by the said government, its representa-  
25 tives, agents, servants and employees, and the defendants, to  
26 whose charge each then was committed, so to operate and act in  
27 and about the place where each plaintiff so was interned and  
28 restrained of his or her liberty, provided, however, that as to  
29 any such plaintiff or plaintiffs who so shall be designated by  
30 the defendants for special individual further hearing herein, the  
31 burden of proof shall be and remain upon the defendants herein  
32 to prove that the renunciation of each such plaintiff, so



1 designated for such special further hearing herein, was wholly  
2 voluntary, uncoerced and uncompelled and was of the free will,  
3 choice, desire and agency of such plaintiff and was neither  
4 caused by nor affected by the duress, menace, coercion, intimi-  
5 dation, fraud or undue influence in which he or she was held  
6 and subjected to, as aforesaid, and that, as to each such plain-  
7 tiff who so shall be designated no formal judgment herein shall  
8 be made or become final until the ~~respective~~ individual special  
9 further hearing of such plaintiff or plaintiffs, held after notice  
10 duly given, shall have been concluded and then only after formal  
11 findings of fact and conclusions of law herein first shall have  
12 been signed and filed in any such further proceedings herein.  
13

14 (2) IT IS ORDERED, ADJUDGED AND DECREED as and for an  
15 interlocutory order, judgment and decree herein for each and all  
16 of the plaintiffs in this action whom the defendants do not  
17 designate for special individual further hearings herein, as  
18 aforesaid, within the period of time aforesaid, as follows, to-wit:  
19

20 The application for renunciation of United States nationality  
21 and citizenship heretofore executed by each said plaintiff, in-  
22 cluding that of each of them who then was laboring under the dis-  
23 ability of infancy and those of the plaintiffs then mentally in-  
24 capacitated who appear herein by next of friend and guardian ad  
25 litem, and his or her said renunciation thereof, together with  
26 the approval and the order of approval thereof heretofore made or  
27 executed by the Attorney General of the United States, a defendant  
28 herein, be and the same hereby are found and declared to be and  
29 they are and each of said things is null, void, invalid, illegal,  
30 contrary to public policy, and of no force and effect and they are  
31 and each of said things is hereby cancelled, annulled and set aside  
32 upon the grounds that each of said renunciations, so executed  
and made, and the said approval and order approving the same, so



1 executed and made, were the direct and proximate cause, effect  
2 and result of the duress, menace, coercion, intimidation, fraud  
3 and the undue influence under which each plaintiff, contrary to  
4 his or her own free will, desire, choice and agency, at the  
5 time of the making, execution and approval thereof, was held,  
6 and for a long period of time prior thereto and thereafter had  
7 been held, arbitrarily, oppressively, capriciously and continuously  
8 in detention and internment and was restrained of his or her  
9 liberty in a War Relocation Center and internment camp, bounded  
10 by barbed wire, and held under the menacing guns of armed guards  
11 and patrols and deprived of his or her national and state citizen-  
12 ships and of all the rights, liberties, privileges and immunities  
13 thereof, including freedom of movement and access to his or her  
14 respective home in this country, and to which each plaintiff  
15 at all of said times knowingly and intentionally was subjected  
16 by the defendants, the United States Government, its representa-  
17 tives, agents, servants and employees and, in particular, the  
18 War Relocation Authority, the defendant Attorney General, his  
19 predecessor in office and agents of the U.S. Department of Justice,  
20 and the military commander of the Western Defense Command and  
21 Fourth Army, to whose charge each plaintiff then and there was  
22 committed, but who acted under and by virtue of a claimed color  
23 of public executive and legislative authority albeit, in the  
24 absence of a state of martial rule and declaration of martial  
25 law, without constitutional or lawful right of sanction, and  
26 without charging any of them with the commission of any crime  
27 and without giving any of said plaintiffs a hearing on the  
28 cause of said detention and mistreatment or any opportunity for  
29 any such hearing or for a release from said confinement, and  
30 the same were the direct and proximate cause, effect and result  
31 of the joint, combining concurrent duress, menace, coercion,  
32 intimidation, fraud and the undue influence under which each



1 plaintiff, contrary to his or her own free will, desire, choice,  
2 and agency, at all of said times and at said place then and  
3 there had been and was held and subjected to by alien-led gangs  
4 and individuals, likewise detained by said public authorities  
5 along with plaintiffs, which and whom the defendants, the United  
6 States Government, its representatives, agents, servants and  
7 employees, to whose charge they were committed and, in particular,  
8 the said War Relocation Authority, the defendant Attorney General,  
9 his predecessor in office and agents of the Department of Justice,  
10 and the military commander of the Western Defense Command and  
11 Fourth Army, which and who, at all of said times and at the place  
12 of renunciation willfully, deliberately and wrongfully, with  
13 full notice and actual knowledge thereof, made it their policy  
14 and practice to permit and openly permitted said gangs and indi-  
15 viduals so to hold and subject each plaintiff and they and each  
16 of them, knowingly and intentionally failed, refused and neglected  
17 to protect each plaintiff against the same, although they and each  
18 of them at all of said times had the duty to protect and the  
19 opportunity to protect each of said plaintiffs against the same  
20 and knew of that duty and opportunity, each and all of which said  
21 things and combination of things instilled and created a great  
22 fear, distress, hysteria, torment, despair and terror in each  
23 plaintiff and operated to deprive and did deprive each plaintiff  
24 of legal and mental capacity so to renounce and of freedom of  
25 choice, will, desire and agency in and about the making of his  
26 or her said renunciation of United States nationality and citizen-  
27 ship and forced and compelled him or her to make said application  
28 for renunciation and said renunciation.

29  
30 (3) IT IS FURTHER ORDERED, ADJUDGED AND DECREED as to each  
31 plaintiff not hereinafter designated for special hearing by the  
32 defendants, as hereinbefore set forth, as follows, to-wit: none

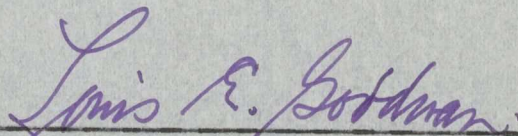


1 of said plaintiffs is an alien, foreigner or an alien enemy, but  
2 on the contrary, each of said plaintiffs herein ever since his  
3 or her birth in this country has been and now is a native born  
4 citizen and national of the United States of America; that, as  
5 such, none of them is subject to detention by the defendants or  
6 any of them; none of them is subject to removal from the United  
7 States under the Alien Enemy Act by the defendants or any of  
8 them; none of them is subject to deportation from the United  
9 States as an alien by them or any of them; none of them is sub-  
10 ject to any restraint upon his or her liberty or any infringe-  
11 ment upon his or her rights, privileges or immunities as an  
12 American citizen by the defendants or any of them; and none of  
13 them can be restricted in his or her freedom of movement or be  
14 denied access to his or her home in this country by the defendants  
15 or any of them; and the defendants, and each of them, their  
16 agents, servants and employees, hereby are enjoined and prohibited  
17 from detaining any of the plaintiffs, from restraining them of  
18 their liberty, from removing or deporting any of them to Japan  
19 or any foreign country, from denying them freedom of movement,  
20 from denying them access to their homes in this country and from  
21 denying them any of their rights, liberties, privileges and im-  
22 munities as citizens of the United States of America; and that  
23 any and all orders heretofore made by the defendants, or any of  
24 them, or by any other entity, governmental or private, for the  
25 detention, restraint, removal or deportation of any of the plain-  
26 tiffs from the shores of this country and from denying them free-  
27 dom of movement or access to their homes in this country or of  
28 depriving them of the full and free exercise of each and all of  
29 their rights, liberties, privileges and immunities of United States  
30 nationality and citizenship be and the same hereby are ordered  
31 cancelled and set aside and they hereby are cancelled and set  
32 aside.



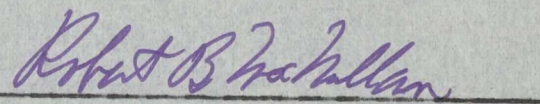
1 (4) IT IS FINALLY ORDERED that upon the expiration of one  
2 hundred twenty (120) days from the date of this interlocutory  
3 order, judgment and decree, or upon any earlier date in the  
4 event the defendants complete and file herein their designation  
5 of the names of any of the plaintiffs against whom they may  
6 wish to present additional evidence at special individual hear-  
7 ings herein, as hereinabove-mentioned, or file a waiver of any  
8 such designation, the plaintiffs not so designated thereupon  
9 shall prepare and file formal findings of fact and conclusions  
10 of law herein and thereupon a final judgment and decree in favor  
11 of said such plaintiffs and against the defendants cancelling  
12 said renunciations shall be entered herein.

13  
14 Dated: September 27, 1948

15  
16   
17 UNITED STATES DISTRICT JUDGE

18  
19  
20 Approved as to form, as provided in Rule 5 (d). Copy  
21 received September 27, 1948.

22 TOM C. CLARK, ATTORNEY GENERAL  
23 FRANK J. HENNESSY, U.S. ATTORNEY:  
24 DEFENDANTS.

25  
26 BY   
27 ASSISTANT U.S. ATTORNEY  
28 ATTORNEYS FOR DEFENDANTS.  
29  
30  
31  
32



*McCisney*

*Filed Sept. 27, 1948*

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARY KANAME FURUYA, et al.,	)	
	)	
Plaintiffs,	)	No. 25295
	)	
-vs-	)	Cons. No. 25294-G
	)	
TOM CLARK, etc., et al.,	)	
	)	
Defendants.	)	
	)	
-----	)	

INTERLOCUTORY ORDER, JUDGMENT AND DECREE

This cause, together with that in its companion proceeding No. 25294-G heretofore consolidated with this proceeding under No. 25294-G, having heretofore been submitted to this Court for decision on the merits pursuant to written stipulation entered into between the parties on October 10, 1947, and the order of this Court thereon made on said date, after oral argument had and after briefs of the parties had been filed herein, and this Court being duly advised in the premises and the cause, facts, matters, issues and law pertinent thereto thereafter having been duly considered by this Court and this Court having filed herein its written Opinion herein, this Court now finds, orders, adjudges and decrees as follows:

(1) IT IS ORDERED that the defendants herein may have to



1 and including one hundred twenty (120) days from and after the  
2 filing and entry of this interlocutory order, judgment and  
3 decree, unless they earlier consent in writing herein to shorten  
4 said period of time or waive such a right, within which they  
5 may, in an exercise of good faith, by a writing or writings to  
6 be filed herein, designate any of the plaintiffs herein for  
7 special individual further hearings herein, upon their election,  
8 evidenced by any such designation, at which to produce admissible  
9 evidence relevant to the issues herein, other than that hereto-  
10 fore offered or introduced in evidence herein on the issues  
11 involved, against each such designated plaintiff proving or  
12 tending to prove that each such designated plaintiff renounced  
13 United States nationality and citizenship of his or her own  
14 free will, choice, desire and agency and that such renunciation  
15 was not caused by or affected by the duress, menace, coercion,  
16 intimidation, fraud and the undue influence under which he or  
17 she knowingly was held and subjected to at the time and place  
18 of renunciation by the United States Government, the defendants,  
19 the representatives, agents, servants or employees of said govern-  
20 ment or by the combined concurrent duress, menace, coercion,  
21 intimidation, fraud and the undue influence under which each  
22 was held and to which each was subjected at said time and place  
23 by alien-led gangs which and individuals who operated in and  
24 knowingly were permitted by the said government, its representa-  
25 tives, agents, servants and employees, and the defendants, to  
26 whose charge each then was committed, so to operate and act in  
27 and about the place where each plaintiff so was interned and  
28 restrained of his or her liberty, provided, however, that as to  
29 any such plaintiff or plaintiffs who so shall be designated by  
30 the defendants for special individual further hearing herein, the  
31 burden of proof shall be and remain upon the defendants herein  
32 to prove that the renunciation of each such plaintiff, so



1 designated for such special further hearing herein, was wholly  
2 voluntary, uncoerced and uncompelled and was of the free will,  
3 choice, desire and agency of such plaintiff and was neither  
4 caused by nor affected by the duress, menace, coercion, intimi-  
5 dation, fraud or undue influence in which he or she was held  
6 and subjected to, as aforesaid, and that, as to each such plain-  
7 tiff who so shall be designated no formal judgment herein shall  
8 be made or become final until the respective individual special  
9 further hearing of such plaintiff or plaintiffs, held after notice  
10 duly given, shall have been concluded and then only after formal  
11 findings of fact and conclusions of law herein first shall have  
12 been signed and filed in any such further proceeding herein.

13  
14 (2) IT IS ORDERED, ADJUDGED AND DECREED as and for an  
15 interlocutory order, judgment and decree herein for each and all  
16 of the plaintiffs in this action whom the defendants do not  
17 designate for special individual further hearings herein, as  
18 aforesaid, within the period of time aforesaid, as follows, to-wit:

19 The application for renunciation of United States nationality  
20 and citizenship heretofore executed by each said plaintiff, in-  
21 cluding that of each of them who then was laboring under the dis-  
22 ability of infancy and those of the plaintiffs then mentally in-  
23 capacitated who appear herein by next of friend and guardian ad  
24 litem, and his or her said renunciation thereof, together with  
25 the approval and the order of approval thereof heretofore made or  
26 executed by the Attorney General of the United States, a defendant  
27 herein, be and the same hereby are found and declared to be and  
28 they are and each of said things is null, void, invalid, illegal,  
29 contrary to public policy, and of no force and effect and they are  
30 and each of said things is hereby cancelled, annulled and set aside  
31 upon the grounds that each of said renunciations, so executed  
32 and made, and the said approval and order approving the same, so



1 executed and made, were the direct and proximate cause, effect  
2 and result of the duress, menace, coercion, intimidation, fraud  
3 and the undue influence under which each plaintiff, contrary to  
4 his or her own free will, desire, choice and agency, at the  
5 time of the making, execution and approval thereof, was held,  
6 and for a long period of time prior thereto and thereafter had  
7 been held, arbitrarily, oppressively, capriciously and continuously  
8 in detention and internment and was restrained of his or her  
9 liberty in a War Relocation Center and internment camp, bounded  
10 by barbed wire, and held under the menacing guns of armed guards  
11 and patrols and deprived of his or her national and state citizen-  
12 ships and of all the rights, liberties, privileges and immunities  
13 thereof, including freedom of movement and access to his or her  
14 respective home in this country, and to which each plaintiff  
15 at all of said times knowingly and intentionally was subjected  
16 by the defendants, the United States Government, its representa-  
17 tives, agents, servants and employees and, in particular, the  
18 War Relocation Authority, the defendant Attorney General, his  
19 predecessor in office and agents of the U.S. Department of Justice,  
20 and the military commander of the Western Defense Command and  
21 Fourth Army, to whose charge each plaintiff then and there was  
22 committed, but who acted under and by virtue of a claimed color  
23 of public executive and legislative authority albeit, in the  
24 absence of a state of martial rule and declaration of martial  
25 law, without constitutional or lawful right of sanction, and  
26 without charging any of them with the commission of any crime  
27 and without giving any of said plaintiffs a hearing on the  
28 cause of said detention and mistreatment or any opportunity for  
29 any such hearing or for a release from said confinement, and  
30 the same were the direct and proximate cause, effect and result  
31 of the joint, combining concurrent duress, menace, coercion,  
32 intimidation, fraud and the undue influence under which each



1 plaintiff, contrary to his or her own free will, desire, choice,  
2 and agency, at all of said times and at said place then and  
3 there had been and was held and subjected to by alien-led gangs  
4 and individuals, likewise detained by said public authorities  
5 along with plaintiffs, which and whom the defendants, the United  
6 States Government, its representatives, agents, servants and  
7 employees, to whose charge they were committed and, in particular,  
8 the said War Relocation Authority, the defendant Attorney General,  
9 his predecessor in office and agents of the Department of Justice,  
10 and the military commander of the Western Defense Command and  
11 Fourth Army, which and who, at all of said times and at the place  
12 of renunciation willfully, deliberately and wrongfully, with  
13 full notice and actual knowledge thereof, made it their policy  
14 and practice to permit and openly permitted said gangs and indi-  
15 viduals so to hold and subject each plaintiff and they and each  
16 of them, knowingly and intentionally failed, refused and neglected  
17 to protect each plaintiff against the same, although they and each  
18 of them at all of said times had the duty to protect and the  
19 opportunity to protect each of said plaintiffs against the same  
20 and knew of that duty and opportunity, each and all of which said  
21 things and combination of things instilled and created a great  
22 fear, distress, hysteria, torment, despair and terror in each  
23 plaintiff and operated to deprive and did deprive each plaintiff  
24 of legal and mental capacity so to renounce and of freedom of  
25 choice, will, desire and agency in and about the making of his  
26 or her said renunciation of United States nationality and citizen-  
27 ship and forced and compelled him or her to make said application  
28 for renunciation and said renunciation.

29  
30 (3) IT IS FURTHER ORDERED, ADJUDGED AND DECREED as to each  
31 plaintiff not hereinafter designated for special hearing by the  
32 defendants, as hereinbefore set forth, as follows, to-wit: none



1 of said plaintiffs is an alien, foreigner or an alien enemy, but  
2 on the contrary, each of said plaintiffs herein ever since his  
3 or her birth in this country has been and now is a native born  
4 citizen and national of the United States of America; that, as  
5 such, none of them is subject to detention by the defendants or  
6 any of them; none of them is subject to removal from the United  
7 States under the Alien Enemy Act by the defendants or any of  
8 them; none of them is subject to deportation from the United  
9 States as an alien by them or any of them; none of them is sub-  
10 ject to any restraint upon his or her liberty or any infringe-  
11 ment upon his or her rights, privileges or immunities as an  
12 American citizen by the defendants or any of them; and none of  
13 them can be restricted in his or her freedom of movement or be  
14 denied access to his or her home in this country by the defendants  
15 or any of them; and the defendants, and each of them, their  
16 agents, servants and employees, hereby are enjoined and prohibited  
17 from detaining any of the plaintiffs, from restraining them of  
18 their liberty, from removing or deporting any of them to Japan  
19 or any foreign country, from denying them freedom of movement,  
20 from denying them access to their homes in this country and from  
21 denying them any of their rights, liberties, privileges and im-  
22 munities as citizens of the United States of America; and that  
23 any and all orders heretofore made by the defendants, or any of  
24 them, or by any other entity, governmental or private, for the  
25 detention, restraint, removal or deportation of any of the plain-  
26 tiffs from the shores of this country and from denying them free-  
27 dom of movement or access to their homes in this country or of  
28 depriving them of the full and free exercise of each and all of  
29 their rights, liberties, privileges and immunities of United States  
30 nationality and citizenship be and the same hereby are ordered  
31 cancelled and set aside and they hereby are cancelled and set  
32 aside.



1 (4) IT IS FINALLY ORDERED that upon the expiration of one  
2 hundred twenty (120) days from the date of this interlocutory  
3 order, judgment and decree, or upon any earlier date in the  
4 event the defendants complete and file herein their designation  
5 of the names of any of the plaintiffs against whom they may  
6 wish to present additional evidence at special individual hear-  
7 ings herein, as hereinabove-mentioned, or file a waiver of any  
8 such designation, the plaintiffs not so designated thereupon  
9 shall prepare and file formal findings of fact and conclusions  
10 of law herein and thereupon a final judgment and decree in favor  
11 of said such plaintiffs and against the defendants cancelling  
12 said renunciations shall be entered herein.  
13

14 Dated: September 27, 1948

15 Louis E. Gordon  
16 UNITED STATES DISTRICT JUDGE  
17  
18  
19

20 Approved as to form, as provided in Rule 5 (d). Copy  
21 received September 27, 1948.

22 TOM C. CLARK, ATTORNEY GENERAL  
23 FRANK J. HENNESSY, U.S. ATTORNEY:  
24 DEFENDANTS.  
25

26 BY Robert B. McCallister  
27 ASSISTANT U.S. ATTORNEY  
28 ATTORNEYS FOR DEFENDANTS.  
29  
30  
31  
32