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## REDRESS

# Court Allows Late Appeal by Redress Claimant

8/94

## Douglas Ishida to appeal denial of redress.

A lawsuit for redress, which had been dismissed by the United States Court of Federal Claims and for which the deadline to appeal had passed, has been given new life.

On Aug. 22, Judge Bohdan Futey granted Douglas Ishida, who was born in Ohio to "voluntary evacuees," an extension in which to appeal to the United States Court of Appeals.

Futey had earlier issued a decision on April 25 dismissing Ishida's lawsuit, and Ishida had not filed an appeal within 60 days as required by federal court rules.

Just one day before Ishida's time to appeal expired, however, Judge James Turner of the same court issued a decision awarding redress to Linda Yae Consolo, another Japanese American claimant born outside of a relocation camp in Utah to "voluntary evacuees." Ishida's attorney, Richard Halberstein of Washington D.C., therefore requested an extension in which to appeal.

In a Aug. 22 order, Futey noted that extensions to appeal are pre-

sumed "mandatory and jurisdictional" and that no extensions can be granted unless there are unique and extraordinary circumstances.

He agreed with Ishida that the decision in *Consolo v. U.S.* presented such circumstances. The order, read in part, as follows:

"Judge Turner's opinion in *Consolo* does not independently change the law as interpreted in *Ishida*, nor does it establish legal error; however, it does set forth a persuasive legal basis for plaintiff's appeal of the decision in *Ishida*.

"The court is especially sensitive to the fact that the basis of plaintiff's action is a Statute which grants reparations to those who were mistreated by the United States government. If the appellate court should decide that plaintiff and others similarly situated should be compensated, then this court will not prevent plaintiff from receiving deserved redress. Based on these unique circumstances, plaintiff's motion is granted."

The *Ishida* case has become the second redress case in the United States Court of Appeals. Earlier, on Aug. 16, the Attorney General of the United States filed an appeal in the *Consolo* case.

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