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# Government's Request to Stay All Cases Rejected

The U.S. Court of Federal Claims denied the government's request to delay ruling on the Watanabe case.

RAFU SHIMPO SPECIAL

The United States Court of Federal Claims this week denied the government's motion to delay ruling on all Japanese American redress cases until the government's appeal of the *Consolo v. United States* case is decided.

In the *Consolo* case, a person born to "voluntary" evacuees was awarded redress under the Civil Liberties Act of 1988.

The government had argued in several cases that the court should delay ruling on redress claims; however, in the case of *Grace Watanabe v. United States*, Judge Robert Hodges rejected the government's argument in the following decision:

*Defendant moves to stay this case pending appeal of similar cases in this court, in the common interest of judicial economy and cost effective litigation. However, a case on the administrative record, particularly one involving identical legal issues as those briefed by the Department of Justice in prior cases, does not call for burdensome litigation. We propose to resolve this case on the merits for whatever benefit it may offer the parties or to the body of law under this statute. DENIED.*

In the *Watanabe* case, the plaintiff was born on Feb. 3, 1944, outside of camp to parents who were interned at Poston (Arizona) but received permission from the War Relocation Authority to go out on indefinite leave because of a medical condition. *Watanabe's* parents lived in the San Pedro area before being interned.

The government had sought the stay in the face of increasing numbers of lawsuits in which Japanese Americans are challenging, based on a variety of fact situations and legal arguments, the Attorney General's determination that they are ineligible for redress, stated Ventura County attorney Gerald Sato.

For persons denied redress by the Justice Department's Office of Redress Administration (ORA), the next legal step in the process is to file a claim with the United States Court of Federal Claims, which only hears cases filed against the federal

government.

The redress cases in the Court of Federal Claims have been filed by Japanese Americans residing in various parts of the country, and represented by several different attorneys.

The cases include *Howard Yoshina v. United States*, case No. 93-739C (Judge Reginald Gibson); *Howard Den Motoyoshi v. United States*, case No. 93-784C (Assigned to Senior Judge Kenneth R. Harkins); *Sharon Tanihara v. United States*, case No. 94-404C (Judge Robert Hodges); *Grace Watanabe v. United States*, case No. 94-479C (Judge Robert Hodges); *Betty M. Isono v. United States*, case No. 94-448C (Judge Marion Horn); *Scarlett Sato v. United States*, case No. 94-558 (Judge Moody Tidwell); *Lillian Yoneko Junker v. United States*, case No. 94-583C (Judge Roger Andewelt); and *Paul Nakabayashi v. United States*, case No. 94-582C (Judge Moody Tidwell).

The losing side—the plaintiff or the government—can then appeal to the United States Court of Appeals for the Federal Circuit.

There are two cases docketed and set to be argued in the United States Court of Appeals for the Federal Circuit—*Linda Yae Consolo v. United States*, case No. 94-5150; and *Douglas Ishida v. United States*, case No. 94-5151.

Sato speculated that the hearings for *Consolo* and *Ishida* may be heard early next year.

In the final step of the legal process, parties losing their appeal can petition to have the United States Supreme Court hear their case. The Supreme Court does not necessarily have to hear the case.

"The Japanese Americans who are fighting for redress in the federal courts are heroes. Each lawsuit is a protest against the discriminatory deprivations of liberty to which the federal government subjected Japanese Americans 50 years ago, and which it persists in failing to acknowledge even today," Sato said.

"For each plaintiff in federal court, there are at least a hundred other Japanese Americans angry with the Attorney General's unceasing efforts to subvert the Civil Liberties Act of 1988," he continued.

"Japanese Americans fighting in the federal courts for redress deserve the public support of all Japanese Americans and our community institutions," Sato added.

All These Cases Have been filed