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Affadavit of Gordon K. Hirabayashi in Support of Reply to Government's Response and Motion

United States District Court - Western District of Washington

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Judge Voorhees

GO TO JUDGE

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON

8	GORDON K. HIRABAYASHI,)	
)	
9	Petitioner,)	NO. C83-122V
)	(Former Crim. No. 45738)
10	vs.)	
)	
11	UNITED STATES OF AMERICA,)	AFFIDAVIT OF GORDON K.
)	HIRABAYASHI IN SUPPORT
12	Respondent.)	OF REPLY TO GOVERNMENT'S
)	RESPONSE AND MOTION

13 _____

14 STATE OF WASHINGTON)

15) ss.

16 COUNTY OF KING)

17 GORDON KIYOSHI HIRABAYASHI, affirms, deposes and says:

18 To put the events which led to my arrest, conviction,

19 and the historic Supreme Court decision into perspective, I will

20 detail a little of my family background.

21 My father was born in Japan. He and a group of his

22 teenaged friends were strongly influenced by the philosophy of

23 Mukyokai, a pacifist Christian movement. During this time period,

24 Japan was engaged in a military build-up which led to the Sino-

25 Japanese and Russo-Japanese wars. Because of my father's strong

26 pacifist beliefs, he left Japan.

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27 ////

28 AFFIDAVIT OF GORDON K.
HIRABAYASHI IN SUPPORT
OF REPLY TO GOVERNMENT'S
RESPONSE AND MOTION - 1

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1 My father immigrated to this country and settled in
2 Seattle. Eventually, six families from the same region in Japan
3 formed a collective in Seattle. They conducted Mukyokai services
4 in their homes. Their practices were much like those of the
5 Quakers. They met without formal preaching or leaders and pri-
6 marily discussed their religious principles and beliefs.

7 My father instilled in me the importance of having con-
8 victions and adhering to a standard of conduct dictated by those
9 convictions. He also emphasized the importance of education.
10 With his support, I enthusiastically followed my academic pur-
11 suits.

12 While attending high school, I became interested in
13 debate. Through this medium, I became aware of the events which
14 shaped the world. I was active in a high school YMCA youth group
15 and later in the University YMCA. I was attracted to the YMCA
16 because of the diverse backgrounds of its members. I recall our
17 discussing the social issues of the day and debating racism and
18 the shipment of scrap metal to Japan. At that time, Japan was
19 invading China.

20 Initially, I obeyed the curfew order. At that time, I
21 was a twenty-three year old graduate student. When my friends
22 saw me studying in the library, they would remind me that I had
23 to be home at 8:00 p.m. But after intensive thinking and soul
24 searching, I could no longer follow the order. I believed that
25 the curfew order was wrongfully imposed on me. I was an American
26 and thus rejected the notion that I or others in my situation

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28 AFFIDAVIT OF GORDON K.
HIRABAYASHI IN SUPPORT
OF REPLY TO GOVERNMENT'S
RESPONSE AND MOTION - 2

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1 should be treated as second class citizens. As a matter of prin-
2 ciple, it was imperative that I continue to live like other Amer-
3 icans, and that I should be able to enjoy the same freedom to
4 study at the library after 8:00 p.m. as my classmates who were
5 not of Japanese ancestry.

6 The exclusion order which followed and which was posted
7 on telephone poles, stated that the order applied only to persons
8 of Japanese ancestry, "both alien and non-alien." I did not
9 support the exclusion order, though I became active in the Ameri-
10 can Friends Service Committee (AFSC), a Quaker organization
11 which was assisting Japanese Americans. At this time, many of
12 those forced to move needed help because most of the leaders of
13 the Japanese community were already incarcerated.

14 After considerable thought, I decided to also defy the
15 exclusion order. I remember discussing this with my AFSC friends.
16 Many advised me to obey the order because it would be safer. My
17 family expressed concern that if I did not obey the order we
18 would not be able to remain together. However, they supported me
19 because they understood the principles that led to my decision.

20 I believed that acquiescing to the exclusion order would
21 be giving helpless consent to the denial of the democratic prin-
22 ciples for which this nation stands and to the violation of the
23 Christian principles which give me the incentive to live.

24 Today, nearly forty-two years later, I am still moti-
25 vated by the same deep feelings. However, I am even more

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28 AFFIDAVIT OF GORDON K.
HIRABAYASHI IN SUPPORT
OF REPLY TO GOVERNMENT'S
RESPONSE AND MOTION - 3

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1 conscious of and outraged by the infringement of the constitu-
2 tional rights which occurred.

3 During the war period, I was arrested, convicted and
4 imprisoned for insisting on being treated like other Americans.
5 My criminal convictions resulted in my suffering disadvantages
6 and embarrassments which continued beyond the service of my sen-
7 tence.

8 In 1948, when my re-appointment as a Graduate Teaching
9 Associate was being considered, the then-president of the Univer-
10 sity of Washington sought to reject my re-appointment on grounds
11 that I had criminal convictions. He thought my convictions made
12 me an undesirable person to be teaching young undergraduates.
13 Were it not for the vigorous support of the Sociology Department
14 chairman, I would have been dismissed. My chairman stated that
15 the reappointment should be made only on professional and schol-
16 arly grounds and that it would be unfair for the University to
17 penalize me further. The president reluctantly approved my re-
18 appointment, but with the comment: "I still think he was wrong."

19 During the same period, I was called for duty on a Fed-
20 eral Petite Jury. I was summarily dismissed after I turned in my
21 background sheet. Since I was very interested in serving on a
22 jury and had made arrangements for others to assume my teaching
23 responsibilities during my absence, I was very disappointed by my
24 dismissal. I called Judge Bowen and inquired as to whether my
25 convictions were the reason for my dismissal. Although he

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28 AFFIDAVIT OF GORDON K.
HIRABAYASHI IN SUPPORT
OF REPLY TO GOVERNMENT'S
RESPONSE AND MOTION - 4

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1 refused to answer, it is my belief that I was deprived of the
2 opportunity to serve on a jury due to my convictions.

3 Even today, the position I had taken for my principles
4 provokes antagonism against me. The misconceptions which led to
5 the curfew and exclusion orders continue to exist. Attached is
6 a copy of a letter I received in October of 1982 which illus-
7 trates this point.

8 I spent the first decade of my professorship teaching
9 and researching in Third World countries. It is ironic that I
10 brought the message of American democracy to these newly self-
11 governing peoples. When questioned about my wartime experiences,
12 I struggled to explain why I was imprisoned in America. I was
13 deeply embarrassed. However, I responded by stating my continu-
14 ing faith in the American system of justice and my belief that a
15 day would come when the injustices I suffered would be acknow-
16 ledged and my criminal convictions would be overturned.

17 Of all the repercussions of my wartime conviction, none
18 match the indignity and humiliation of losing my freedom at the
19 hands of my own country without due process and of losing the
20 protection of the Bill of Rights when I needed it most. The
21 Court's decisions in my case stand for everything antithetical to
22 the principles which led me to challenge the Government's actions
23 toward me and other Japanese Americans.

24 With my Petition for writ of error coram nobis, there is
25 now the possibility of having my wartime charges finally vacated.
26 However, in order that this judicial action may serve to reduce

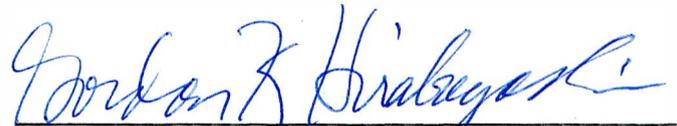
27 ////

28 AFFIDAVIT OF GORDON K.
HIRABAYASHI IN SUPPORT
OF REPLY TO GOVERNMENT'S
RESPONSE AND MOTION - 5

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1 the probability that other members of minority groups will be
2 similarly treated, it is important that the unconstitutionality
3 of the laws under which I was convicted and the evidence leading
4 to the vacation of charges be specified. With such a conclusion,
5 I am prepared to consider these past injustices to principles to
6 be corrected.

7 DATED this 1st day of December, 1983.

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9
10 
11 GORDON K. HIRABAYASHI, Petitioner

12 SUBSCRIBED AND AFFIRMED TO before me this 1st day of
13 December, 1983.

14 
15 NOTARY PUBLIC in and for the State
16 of Washington, residing at Seattle

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27
28 AFFIDAVIT OF GORDON K.
HIRABAYASHI IN SUPPORT
OF REPLY TO GOVERNMENT'S
RESPONSE AND MOTION - 6

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