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Government's Renewed Motion to Dismiss or in the Alternative, for a Stay

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GENE S. ANDERSON
United States Attorney

CC TO JUDGE

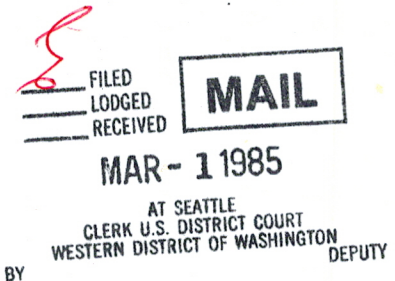
JUDGE VOORHEES

NOTE ON MOTION CALENDAR:
MARCH 22, 1985

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REQUEST FOR ORAL ARGUMENT

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

GORDON K. HIRABAYASHI,
Petitioner,
v.
UNITED STATES OF AMERICA,
Respondent.

No. C83-122V
(Former Crim. No. 45738)

GOVERNMENT'S RENEWED MOTION TO DISMISS,
OR IN THE ALTERNATIVE, FOR A STAY

1. The United States, by Victor D. Stone, counsel for respondent, by leave of court granted on May 18, 1984 (Tr. 128:line 15-17) renews its motion to dismiss the instant coram nobis petition on three separate grounds: (1) the petition cannot be granted because no Article III case or controversy is presented; (2) laches bars relief; and (3) the petition does not raise issues of the "most fundamental character" because

petitioner's factual claims, even if true, could not have affected the 1943 judgment in his case. In support of this renewed motion, respondent United States relies upon the government's Supplemental Points and Authorities filed in May 1984 at pp. 1-33 and the Government's Proposed Prehearing Order, pp. 1-10.


2. In the alternative, respondent United States moves for a stay pending final disposition of the pending appellate proceedings in Yasui v. United States (9th Cir. No. 84-3730). In support of this alternative motion, respondent has filed and relies upon the Government's Memorandum of Law in Support of Its Alternative Motion for a Stay, and all the other pleadings and exhibits heretofore filed in this case.

3. The Government respectfully requests that the Court schedule argument on this motion.

Respectfully submitted,

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