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?BC-HIRABAYASHI-TRIAL,400

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JAPANESE INTERNMENT VIOLATOR GRANTED FULL TRIAL WISH

SEATTLE -- A JAPANESE-AMERICAN CONVICTED OF A MISDEMEANOR FOR REFUSING TO REPORT TO AN INTERNMENT CAMP IN 1942 HAS WON HIS PLEA FOR A NEW, FULL TRIAL 42 YEARS LATER.

"I WAS SENTENCED TO PRISON FOR TRYING TO LIVE LIKE OTHER AMERICANS," GORDON HIRABAYASHI TOLD U.S. DISTRICT JUDGE DONALD VOORHEES FRIDAY IN AN ELOQUENT APPEAL THAT DREW MORE THAN 100 OTHER JAPANESE-AMERICANS TO AN EXTRA-LARGE COURTROOM RESERVED FOR THE OCCASION.

VOORHEES RULED HIRABAYASHI WOULD BE ALLOWED TO ARGUE HE WAS WRONGLY CONVICTED OF VIOLATING CURFEW AND INTERNMENT ORDERS DURING WORLD WAR II SOLELY BECAUSE HE WAS OF JAPANESE ANCESTRY. THE JUDGE REFUSED THE GOVERNMENT'S REQUEST THAT HIRABAYASHI'S PETITION BE DISMISSED.

THE GOVERNMENT'S ATTORNEY, VICTOR STONE, TOLD VOORHEES THAT THE U.S. JUSTICE DEPARTMENT WAS WILLING TO LET THE COURT DISMISS THE ORIGINAL INDICTMENT AND VACATE HIRABAYASHI'S CONVICTION. BUT STONE SAID HIRABAYASHI SHOULDN'T BE ALLOWED TO ARGUE THAT HIS CONVICTION WAS BASED ON FALSE INFORMATION ABOUT THE DANGER OF JAPANESE-AMERICAN CITIZENS.

STONE SAID IT WAS DIFFICULT TODAY TO REVIEW IN HINDSIGHT THE DECISION OF THE ARMY OFFICIAL WHO WAS UNDER ORDERS TO PROTECT THE COUNTRY'S SAFETY AND APPROVED THE INTERNMENT BASED ON THE BEST AVAILABLE INFORMATION.

"HOW HE CHOSE TO REACT IS HIS STATE OF MIND IN 1942," HE SAID. HIRABAYASHI, HOWEVER, ASSERTED THAT HE SHOULD BE ABLE TO TELL HIS STORY AS PART OF HIS EFFORT TO HAVE THE CONVICTIONS REMOVED. "THIS IS NOT ONLY MY CASE, THIS IS NOT ONLY A JAPANESE-AMERICAN CASE, THIS IS AN AMERICAN CASE," HE SAID.

HIRABAYASHI, WHOSE MISDEMEANOR CONVICTIONS WERE UPHELD BY THE U.S. SUPREME COURT IN 1943, WAS A SENIOR AT THE UNIVERSITY OF WASHINGTON IN SEATTLE WHEN HE GAINED NATIONAL ATTENTION FOR VIOLATING CURFEW ORDERS AND REFUSING TO REPORT TO A

GOVERNMENT-SPONSORED INTERNMENT CAMP.

NOW 65 AND A SOCIOLOGY PROFESSOR AT THE UNIVERSITY OF ALBERTA IN EDMONTON, HE CLAIMS THE GOVERNMENT VIOLATED HIS CONSTITUTIONAL RIGHTS AND SUPPRESSED, ALTERED AND DESTROYED DOCUMENTS THAT WOULD HAVE CONTRADICTED THE CONTENTION THAT THE WARTIME ACTIONS WERE A MILITARY NECESSITY.

THE SEATTLE-BORN HIRABAYASHI SAID HE THOUGHT THAT AS AN AMERICAN OF JAPANESE ANCESTRY HE WAS GUARANTEED THE SAME CONSTITUTIONAL PROTECTIONS AS ANY OTHER CITIZEN.

CALLING THE SUPREME COURT'S DECISION A "BLACK MARK OF CONSTITUTIONAL LAW," HIRABAYASHI SAID HE WANTED TO WIN HIS CASE BECAUSE HE STILL BELIEVES IN THIS COUNTRY'S PRINCIPLES AND WANTS OTHERS TO REGARD THE UNITED STATES AS A "MODEL OF DEMOCRACY." THE AUTHORITY TO CARRY OUT EVACUATION OF JAPANESE-AMERICANS ON THE WEST COAST WAS DELEGATED TO THE MILITARY UNDER AN EXECUTIVE ORDER SIGNED FEB. 19, 1942, BY PRESIDENT FRANKLIN D. ROOSEVELT. ?APTV-05-19-84 0502EDT

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