

1988 WL 90201

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United States District Court, District of Columbia.

Fouad Yacoub RAFEEDIE, Plaintiff,
v.
IMMIGRATION AND NATURALIZATION
SERVICE, et al., Defendants.

CIV. A. No. 88-0366. | Aug. 4, 1988.

Opinion

ORDER

JOYCE HENS GREEN, District Judge.

*1 On June 15, 1988, this Court issued a preliminary injunction preventing defendants from proceeding against plaintiff under Section 235(c) of the Immigration and Nationality Act, 8 U.S.C. § 1225(c). The Court also denied defendants' motion to dismiss and denied plaintiff's motion for summary judgment. This matter now comes before the Court on plaintiff's motion for reconsideration with respect to the Court's holding on Count II (applying test articulated in *Rosenberg v. Fleuti*, 374 U.S. 449 (1963) in analyzing plaintiff's due process challenge to application of Section 235(c) and Count IV (constitutional challenge to application of 8 U.S.C. §§ 1182(a)(27) and (a)(28)(F)). In the alternative, plaintiff requests the Court to certify these issues as appropriate for appeal.

After filing an opposition to plaintiff's motion for reconsideration or certification, defendants appealed the

remainder of this Court's June 15, 1988 decision: (1) the determination that plaintiff need not exhaust his administrative remedies, (2) the finding that failure to enjoin the exclusion proceedings would result in irreparable harm to plaintiff, and (3) that conclusion that the "Palestinian Liberation Organization exception" to Section 901 of the Foreign Relations Authorization Act does not apply to the Popular Front for the Liberation of Palestine.

In consideration of plaintiff's motion, defendants' response thereto, and finding that this Court's decision on Count II of the complaint involves a controlling question of law on which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation because of the appeal by defendants, 28 U.S.C. § 1292(b), it is accordingly hereby

ORDERED that plaintiffs' motion for reconsideration as to Count II be and it hereby is denied; it is

FURTHER ORDERED that plaintiff's motion for reconsideration as to Count IV be and it hereby is denied without prejudice to renew if and when appropriate; it is

FURTHER ORDERED that plaintiffs' motion for certification of the issues regarding Count II determined in this Court's decision of June 15, 1988 is granted; and it is

FURTHER ORDERED that this action is hereby stayed pending further resolution of the issues on appeal.

IT IS SO ORDERED.