

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA
3 CENTRAL DIVISION
4

FILED

DEC 20 1944

EDMUND J. SMITH, Clerk
By... *[Signature]* Deputy Clerk

5 IN THE MATTER OF THE) Naturalization Case No. 119332.
6 PETITION FOR NATURALIZATION) CONCLUSIONS OF THE COURT AND
7 OF MAHMUD MUHAMMAD SHAIKHALY.) ORDER GRANTING PETITION FOR
8 NATURALIZATION.

9 Mahmud Muhammad Shaikhaly petitions for naturalization
10 as a citizen of the United States. Petitioner is a native
11 and citizen of Palestine and is of the Arabian race.

12 Being otherwise eligible to citizenship, the sole
13 question is whether petitioner is ineligible by reason of
14 Congressional legislation embodied in Title 8, Section 703,
15 U.S.C. as amended December 17, 1943.

16 The Immigration and Naturalization Service of the
17 Government and its designated examiners in this matter have
18 recommended the naturalization of petitioner, asserting that
19 he is not considered by such agencies of the United States
20 as ineligible for citizenship.

21 The question for decision is therefore whether under
22 the present state of the law the petitioner can be classi-
23 fied as a "white person."

24 Undoubtedly there are dicta in United States v. Thind,
25 261 U.S. 204, (1923), which would operate to exclude peti-
26 tioner from citizenship if the statutory requirements in
27 effect at the time of such decision are the same as are
28 operative today in naturalization proceedings. The amend-
29 ments of December 17, 1943, relating to the admission of
30 Chinese persons, as well as the existent terms of the statute
31 providing for the naturalization of "descendants of races
32 indigenous to the Western Hemisphere," we think removes the

1 Thind case as a decisive authority in this petitioner's
2 proceeding. Rulings antedating the amendments to the
3 Naturalization laws relating to racial questions are not very
4 illuminating or informative.

5 To interpret the words "white persons" as found in
6 the existing statute applicable to this petition in the
7 manner as stated by the Supreme Court in the Thind decision
8 would, in my opinion, render ineffectual provisions now
9 present in the law relating to certain Asiatics and to
10 descendants of races indigenous to the Western Hemisphere,
11 and would also tend to introduce confusing and contradictory
12 constructions of the statute under consideration. Such
13 results should be avoided if possible.

14 We think that the amendments to applicable law sub-
15 sequent to the Thind decision evince a Congressional intent
16 to depart from the meaning attributed to the term "white
17 persons" by the framers of the original statute in the year
18 1790.

19 It also appears that our respected associate Judge
20 Leon R. Yankwich has heretofore held in re Kanza Omar that
21 one of Arabian descent is eligible for citizenship.

22 For the foregoing reasons, in my opinion, the petition
23 of Mahmud Muhammad Shaikhaly for naturalization should be
24 and the same is hereby granted, and upon said Mahmud
25 Muhammad Shaikhaly's taking the appropriate oath of alle-
26 giance he will be admitted as a citizen of the United
27 States.

28 Dated December 20, 1944.

29 
30 United States District Judge.