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SCOTUS Opinion: Immigrant's Testimony Not Entitled To Presumption Of Credibility In Removal Case

1 Jun 2021

The case of *Garland v. Ming Dai* involved two consolidated appeals where in each an immigrant noncitizen was requesting that he not be removed to his respective country of origin. In each case, the immigrant gave testimony in support of their cause to stay in the United States, and in each case the immigration judge and the Bureau of Immigration Appeals ruled against them, in part because the testimony each immigrant gave was deemed untrue. The Ninth Circuit held that the IJ and BIA erred because the Immigration Nationality Act required that such testimony be deemed credible and true unless an explicit "adverse credibility determination" was made.

The Court, in a unanimous decision by Justice Gorsuch, reversed, holding that the Ninth Circuit's rule was incompatible with the terms of the Act. As a procedural matter, it was inappropriate for the Ninth Circuit to make any kind of credibility determination since that is not the role of the appellate courts—it was obligated instead to accept the findings of the immigration judge and Bureau of Immigration Appeals as to the facts. Further, the credibility presumption provided under the Act was expressly "rebuttable," and there was no requirement that the immigration judge or Bureau of Immigration Appeals explicitly state whether an immigrant's testimony was rebutted in order to make their factual findings.

A link to the opinion is here: https://www.supremecourt.gov/opinions/20pdf/19-1155_1a7d.pdf

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The Court, in a unanimous decision by Justice Gorsuch, reversed, holding that the Ninth Circuit's rule was incompatible

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TAGGED: Presumption, Garland v. Ming Dai, immigration judge, Bureau of Immigration Appeals, Immigration Nationality Act, rebuttable