Institution:	Inter-American Commission on Human Rights
File Number(s):	Case No. 1773
Session:	Thirty-Fourth Session (15 – 25 October 1974)
Title/Style of Cause:	Ambrosio Soto and others v. United States
Doc. Type:	Decision
Decided by:	President: Dr. Andrés Aguilar, President (Venezuela) Vice-President: Dr. Carlos A. Dunshee de Abranches (Brazil) Members: Professor Manuel Bianchi (Chile); Dr. Gabino Fraga (Mexico); Dr. Justino Jimenez de Aréchaga (Uruguay); Mr. Robert F. Woodward (United States); Dr. Genaro R. Carrio (Argentina)
Dated:	15 – 25 October 1974
Citation:	Soto v. U. S., Case 1773, Inter-Am. C.H.R., OEA/Ser.L/V/II.34, doc. 31 rev. 1 (1974)
Represented by:	APPLICANT: Alber F. Moreno
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[1] Case 1773, August 13, 1973, reporting that Spanish-speaking person who is over 50 years of age and has been legally resident in the United States for more than 20 years from necessity of being able to demonstrate an understanding of the English language in order to be naturalized and, furthermore, since the petitioner was able to affix his signature at subscription place of oath specified by statute, that petitioner was entitled to be admitted to citizenship of the United States although he could not comply with letter of statutory provision requiring the taking of oath of allegiance in the English language.

Together with these reports, the Government of the United States transmitted a copy of the pertinent decision, referred to in the foregoing paragraph, together with additional notes on the law previously in force and on important legal decisions on the same problem that was the subject of the petition of Contreras and of the case brought by the complainants to the CIDH. In addition, this information was supplemented by an account of the historic background of the Immigration and Naturalization Law from the establishment of the Union.

Finally, the Government offered to send to the Commission further information on the case in view of the fact that the investigation of it by the Department of State and other authorities was continuing.

[2] At its thirty-second session (April 1972), the Commission began its examination of the matter, together with the information provided by the Government of the United States and, bearing in mind the offer of that Government to supply further information, decided to postpone its examination of the case. At the same time it transmitted the pertinent parts of the above-mentioned information to the complainants so that, if they deemed it pertinent, they could make their comments on it. This decision was implemented in notes dated April 19, 1974, to the above-mentioned Government and on April 26 of the same month to the complainants.

[3] In notes dated June 17 and October 16, 1974, the Government of the United States supplied

additional information on the complaint, consisting of copies of decisions adopted by courts of the Union on the subject matter of case 1773. In addition, in the memorandum attached to the note of October 16, the Government in question stated that, in accordance with the facts reported, there was no evidence that the petitioners had at any time exhausted the domestic legal remedies of the United States. In addition, it stated that, in accordance with the decisions of Federal District Courts that had tried cases like that submitted to the Commission, "the Constitution does not confer on foreigners the right to naturalization" and therefore there is no "right to naturalization" unless they comply with the statutory requirements. In addition, the courts had held that the requirement imposed by the law (of speaking and writing English fluently) is certainly not arbitrary, illegal or unreasonable. In addition, the Government of the United States stated that all aliens legally resident in the country had full opportunities to be admitted to citizenship by complying with the statutory requirements, so that the persons concerned can achieve the modest competence in English necessary for naturalization.

[4] With this information to hand, the Commission examined the merits of case 1713 at its thirty-fourth session (October 1974) and appointed Dr. Carlos A. Dunshee de Abranches rapporteur.

On the basis of the draft resolution prepared by the rapporteur, the Commission unanimously approved the following resolution, declaring that this case was inadmissible and that this decision should be communicated to the parties (OAS/ser.L/V/II.34, doc.28, October 24, 1974):

WHEREAS:

1. Ambrosio Soto and 334 other Spanish-speaking aliens who claim legal residence in the United States for more than five years, the League of United Latin American Citizens and the American GI Forum, presented to the Commission, through their lawyer, Alber F. Moreno, a communication in which they request that it be "recommended that the Government of the United States, in application of the rights contained in the American Declaration of the Rights and Duties of Man, eliminate the English literacy requirement (for citizenship) in order to afford social and economic equality to the some 1,600,000 Latins Resident in the United States";

2. The petitioners affirm that they have met all of the other requirements demanded by the law in order to be naturalized, except that of speaking English fluently, and that some courts, members of Congress and other authorities of the United States have expressed, on different occasions, the advisability of amending the naturalization law. The petitioners claim that their position is just because they pay taxes and contribute to the progress of the community in the same manner as others who have been naturalized simply because they speak English;

3. The petitioners conclude by citing, among others, Articles II and XIX of the American Declaration of the Rights and Duties of Man;

4. The existing legal standards in the United States in this matter, which the petitioners indicate as a basis of the discriminatory treatment against which they complain, read:

"No person except as otherwise provided in this subchapter shall hereafter be naturalized as a citizen of the United States upon his own petition who cannot demonstrate -
a. "an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language: Provided, That this requirement shall not apply to any person physically unable to comply therewith, if otherwise qualified to be naturalized, or to any person who, on the effective date of this chapter, is over fifty years of age and has been living in the United States for periods totaling at least twenty years: Provided further That the requirements of this section relating to ability to read and write shall be met if the applicant can read or write simple words and phrases to the

end that a reasonable test of his literacy shall be made and that no extraordinary or unreasonable condition shall be imposed upon the applicant; and
b. "a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States."

5. The Representative of the United States to Organization of American States in response to a request for information, initially stated that:
"This matter, to our knowledge, has never been brought before the courts of the United States. Informal discussions with the attorney of record in the matter confirm this conclusion. However, a matter with certain similarities was treated in one case, Petition of Contreras 100 F. Supp 419 (D.C.S.D. California, 1951), a copy of which is enclosed. Also enclosed are the following documents: (a) a copy of the legislation with notes on prior law and relevant court decisions, and (b) discussion of the legislative history."

6. The Judicial decision mentioned in the preliminary information of the Government clearly points out that Juan Contreras was naturalized because he met the requirements of the amendment to the Naturalization Law which dispensed with the English literacy requirement for those persons over 50 years of age and legal residents in the United States for 20 years. This can be expressly seen from the text transmitted to the Commission.

"Petition of Contreras. No. 146430. United States District Court S.D. California, Central Division. July 16, 1951. Proceeding in the matter of the petition of Juan Contrearas to be admitted as a citizen of the United States of America. The District Court, Paul J. McCormick, J., held that since petitioner met qualifications of statutory amendment relieving a person who is over 50 years of age and has been legally residing in the United States for 20 years from necessity of being able to demonstrate an understanding of the English language in order to be naturalized, and since petitioner was able to affix his signature at subscription place of oath specified by statute, petitioner was entitled to be admitted to citizenship of the United States although petitioner could not comply with letter of statutory provision requiring the taking of oath of allegiance in English.

7. Later, the Representative of the same government submitted to the Commission the following additional information:

a. House Bill, H.R. 1147 - This proposed legislation is pending in the Subcommittee on Immigration, Citizenship, and International Law of the House Judiciary Committee. It would if enacted into law eliminate the English language requirement for citizenship.
b. Senate Bill, S. 2226 - This proposed legislation is pending in the Subcommittee on Immigration and Naturalization of the Senate Committee on the Judiciary. It would if enacted into law update and broaden the exceptions with regard to the English language requirement for persons over 50 years of age and add an additional exception for persons over 60 years of age.
c. Copy of Petition of Katz, 21 F. 2d 867, a case which related to English language requirements.
d. Copy of U.S. v. Bergmann, 47 F. Supp 765, a case which alludes to the English language requirement."

8. Finally, the Government of the United States, through its Representative, completed its reply in the following terms:

"We note that the petition does not allege that its proponents have exhausted their domestic legal remedies and, in fact, there appears to have been no such attempt by these petitioners. Nevertheless, the precise issue that petitioners raise has been litigated recently before a United States court; a copy of the decision in this case, Trujillo-Hernandez v. Farrell, Civil Action No. 72-B-86 in the United States District

Court for the Southern District of Texas, is enclosed. The court held that the English literacy requirement for citizenship is not a violation of the Federal Constitution and noted, inter alia, that there exists no "right" to citizenship through naturalization.

"At page 15 of their submission petitioners contend that

Elimination of the English literacy requirement would also be consistent with the pattern followed by other countries in the Western Hemisphere, including Canada and Mexico, none of which require written and spoken fluency in the national language before citizenship will be granted.

"Many countries in the hemisphere besides the United States require some form of fluency in the primary local language as a precondition for citizenship. Thus the statement quoted above is misleading.

"In Colombia, Ecuador and Peru, a person must read and white Spanish (Law 22 of February 29, 1936; Article 4 of Regulations to Executive Decree 985 of June 14, 1950; Article 27 of Law 9148 of June 14, 1940, respectively). Argentine law requires that a person be able to express himself intelligibly in Spanish (Article 10 of Decree of December 19, 1931 relating to Article 2 of Law 346 of October 8, 1869). Guatemalan law requires an applicant for naturalization to submit to an examination testing his knowledge of the Spanish language (Chapter 4, Article 34, Part 3, of Decree 1613 of 1966). Panamanian law requires that an applicant speak Spanish (Title 2, Article 10, of the Constitution).

"Brazilian law requires that applicants for naturalization read and write the Portuguese language, but makes exceptions for persons arriving before their fifth birthday and in certain other cases (Article 124-133 of Decree Law 941 of October 13, 1969). Venezuelan law also requires a Spanish language examination, but exempts persons over 50 years of age, those with ten years' uninterrupted residence and certain other individuals (Venezuelan Naturalization Law, Article 1). The Bahamian nationality Act of 1973 stipulates proficiency in English as a prerequisite to attaining Bahamian citizenship. We understand that written English is not required, but ability to speak and understand English is. Finally, Barbados and Grenada establish the same requirement.

"The fact that at least ten other countries in the hemisphere have established some sort of local-language fluency requirement as a condition for citizenship is not in itself conclusive as to whether such a requirement is inconsistent with the provisions of the American Declaration on Human Rights. However, this fact plainly indicates that literacy requirements are considered reasonable and appropriate elsewhere in the hemisphere. In this respect, we would suggest that nothing contained in Articles I, II, V, VI, XIV, XIX, or XX of the American Declaration prohibits reasonable conditions on the attainment of citizenship by naturalization. Moreover, Article XIX by its terms recognizes that nationality is regulated by law, and that no country has the obligation of granting it.

"Petitioners also suggest that somehow Mexican aliens were induced by the United States to come to the United States to work as farm workers in the mistaken belief that they would be able to apply for citizenship. We see no basis for this contention, given the fact that any Mexican alien lawfully resident in the United States has full opportunity to obtain U.S. citizenship through satisfaction of the normal requirements. We note also that there are extensive facilities, including publicly founded adult education programs across the country, for the achievement by Spanish-speaking aliens of the modest competence in English necessary for naturalization."

9. From the foregoing it can be concluded: that the petition is not admissible, since pursuant to Articles 9 (bis) d of the Statute and 54 of the Regulations of the IACHR, the petitioners have not exhausted the internal legal remedies of the United States. In the above-mentioned case of Senobio Trujillo-Hernandez, who acted individually and on behalf of all other similarly situated, vs. Raymond S. Farrel, Commissioner of United States Immigration and Naturalization Service (Civil Action No. 72-B-86), it was made clear that the claimants (just as the petitioners in this case) could utilize the following means to attack the denial of a request for naturalization by the Naturalization Service: a) administrative recourse b) attack the constitutionality of the Naturalization Law in the Naturalization Court; c) civil suit in the United States District Court and appeals up to the Supreme Court.

10. The argument of the petitioners in the sense that paragraph 1423 of the Naturalization Law of the

United States is violative of Articles II and X1X of the American Declaration cannot stand. One cannot confuse the "right to the nationality to which he is legally entitled by law" with the right of a person to change his nationality for that "of any other country that is willing to grant it to him." Thus there exists no right of naturalization against a certain state because, in principle, this is a faculty whose requisites each sovereign state may regulate in its internal law.

11. The mention of the word "language" in Article II of the American Declaration concerning equality before the law does not apply to the qualifications that a candidate must meet for naturalization. Legislation in at least ten American States requires a literacy test in the national tongue.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLVES:

1. To declare inadmissible this petition and to transmit this resolution to the interested parties."

[5] This Resolution was communicated to the United States Government on November 26, 1974, and to the complainants on the same date.