

# ***Trop v. Dulles***

356 U.S. 86 (1958)

## **I. Facts**

- a. This case was decided by the United States Supreme Court in 1958 with a vote of 5-4.
- b. Trop, a native-born American citizen was arrested and court-martialed for desertion in 1944 during World War II. He escaped from an Army stockade and was picked up by an Army vehicle while making his way back to the Army base after deciding to return. Petitioner's desertion lasted less than 24 hours, but he was still charged and received three years of hard labor, forfeiture of all pay and allowance and a dishonorable discharge from the military. In 1952, Trop was denied a passport under the Nationality Act of 1940, which stated that those who were convicted of desertion during wartime and received a dishonorable discharge forfeited their American citizenship. Trop sued in order to have the judiciary assert that he was a citizen of the United States of America.
- c. The Plaintiff: Albert Trop. Trop claims that his loss of citizenship in the US was unconstitutional and unjust. He is suing in order to have the judiciary assert that he is a US citizen and entitled to all the rights and protections that American citizenship affords.
- d. The Defendant: John Foster Dulles, The United States Secretary of State. Dulles represents the federal government in this case, which claims that under the provisions of the Nationality Act of 1940, Trop legally lost his right to American citizenship by deserting his military position during a time of war, and receiving a dishonorable discharge from the military as a result of his actions.

## **II. Questions/Issues**

- a. Does the Court have jurisdiction to hear this case?
- b. Can the United States take away a citizen's right to citizenship as a punishment for desertion during wartime?

## **III. Decisions.**

- a. The Supreme Court has jurisdiction in his case because it involves the actions of a native-born American whose US citizenship is in question. Though the event transpired in French Morocco, Trop did not violate any Moroccan laws, nor did his actions affect Morocco in anyway. In addition, Trop is an American national who brought suit against an American domestic law in an American court.
- b. The Court held, as it did in *Perez v. Brownell*, that the power to remove citizenship, once it was legally obtained, did not rest with the National

Government. Citizenship status could only be relinquished voluntarily by the person it belongs to, either through an official declaration, or conduct that supports its renunciation. The Supreme Court concluded that Trop's actions were not sufficient to assert a declaration that ensured the forfeiture of his citizenship. It acknowledged the difference between deserting the military in wartime and deserting the military for the enemy. Trop did not join the enemy during his desertion period. Moreover, the Court contends that the punishment of losing one's citizenship violates the 8<sup>th</sup> amendment of the Constitution (Cruel and Unusual punishment) because it leaves a person stateless. The Court asserts that causing a person's statelessness is looked down upon in the international community because it leaves a person unprotected and without the backing of any state. A stateless person must always be in fear of what may happen to him since he has no protection of citizenship anywhere in the world, and could be subjected to banishment or cruel treatment since he is not afforded the rights reserved for citizens. The Court contends that because of these possible effects, the loss of citizenship for wartime desertions is too cruel and unusual.

- c. Dissent – Justice Frankfurter, in his dissent argued that death was an alternative, acceptable punishment for wartime desertion. He argues that clearly the loss of citizenship is preferable to that of death, and that if the Court is willing to accept capital punishment as a Constitutional, the loss of citizenship should also be allowed.

#### **IV. Principles**

- a. Citizenship, at least in the United States of America, may only be relinquished by the individual voluntarily. The National Government does not have the right to strip an individual of their citizenship as a punishment for bad behavior.
- b. Statelessness is when a person does not have citizenship in any state. Therefore, that person is not protected by the rights afforded to citizens of states and cannot be represented in an international conflict because stateless people do not have any state representation.
- c. Cruel and unusual punishment was a principle used to conclude this case because the Court concluded it was cruel and unreasonable to force someone to become a stateless person as a punishment for wartime desertion.

#### **V. Conclusion**

This case is important in United States domestic law because it recognizes the importance of citizenship and how it relates to international law. In addition, it sets a precedent that citizenship may only be voluntarily relinquished, and that the government may not strip a person of his/her citizenship as a punishment for misbehavior.

**VI. Bibliography**

*Trop v. Dulles*, 356 U.S. 86 (1958).

**VII. Submitted By:**

Ashley Wilburn, October 26, 2009.