

Chun Nam KIN, et al.
vs.
GOVERNMENT OF THE
NORTHERN MARIANA
ISLANDS, et al.

Civil Action No. 88-0022
District Court NMI

Decided February 28, 1989

1. Civil Rights - Attorneys Fees
In civil rights action, plaintiffs had the right to choose whatever forum they deemed appropriate to achieve the end they sought and where plaintiffs prevailed in civil rights action, attorneys fees will be awarded. 42 U.S.C. §1988.

FILED
Clerk
District Court

FEB 28 1989

For The Northern Mariana Islands

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

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CHUN NAM KIN, and DANTE A.)
EVANGELISTA, on behalf of)
themselves and all others)
similarly situated,)
Plaintiffs,)
v.)
GOVERNMENT OF THE NORTHERN)
MARIANA ISLANDS, OFFICE OF)
IMMIGRATION and NATURALIZATION,)
CHARLES REYES, ACTING CHIEF OF)
IMMIGRATION, in his official)
and individual capacities,)
Defendants.)

CIVIL ACTION NO. 88-0022

DECISION

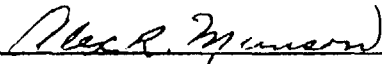
Plaintiffs filed a motion seeking attorneys fees pursuant to 42 U.S.C. section 1988 based on their assertion that they were the prevailing party in this action. The government did not file a brief in opposition to the motion but appeared at the hearing. The government argued that plaintiffs were not entitled to attorneys fees because, in essence, they had forum shopped to avail themselves of the fees. According to the government, the case was initiated as a deportation proceeding in the Commonwealth Trial Court by the government. Had plaintiffs appealed and prevailed they would have accomplished the same result but not been entitled to fees.

1 Plaintiffs suit challenged the constitutionality of P.L.
2 5-32 which provided for the deportation of immediate relatives of
3 alien workers who earned less than \$20,000 per year. The parties
4 agreed to suspend the enforcement of the law pending the resolution
5 of this lawsuit. The Court subsequently found that the law was
6 unconstitutional and struck it down. Thus, plaintiffs obtained the
7 precise relief they requested. This Court finds that plaintiffs
8 have prevailed.

9 [] The Court has researched Section 1988 re attorneys fees
10 and has been unable to find authority for the government's
11 position. Further, the government has not cited any such
12 authority. Plaintiffs had the right to chose whatever forum they
13 deemed appropriate to achieve the end they sought. They should
14 be constrained to seek relief in the forum chosen by the
15 government.

16 For all these reasons, the Court finds that plaintiffs
17 have prevailed and attorneys fees will be awarded.

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19 Dated this 28th day of February, 1989.

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24 Judge Alex R. Munson
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