

355 U. S.

Per Curiam.

UNITED STATES EX REL. LEE KUM HOY ET AL. v.  
MURFF, DISTRICT DIRECTOR, IMMIGRA-  
TION AND NATURALIZATION SERVICE.CERTIORARI TO THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT.

No. 32. Argued November 21, 1957.—Decided December 9, 1957.

Three Chinese children sought entry into the United States, claiming to be children of an American citizen, but they were excluded on the ground that blood grouping tests showed that the American citizen was not their parent. It appeared that the blood grouping tests were in some respects inaccurate and the reports thereof partly erroneous and conflicting. *Held*: The judgments heretofore entered are vacated and the case is remanded to the District Court with directions that the hearings before the Special Inquiry Officer or a Board of Special Inquiry be reopened, so that new, accurate blood grouping tests may be made under appropriate circumstances, and that relevant evidence may be received as offered on the issues involved.

237 F. 2d 307, judgments vacated and case remanded.

*Benjamin Gim* argued the cause for petitioners. With him on the brief was *Edward J. Ennis*.

*John F. Davis* argued the cause for respondent. With him on the brief were *Solicitor General Rankin*, *Assistant Attorney General Olney*, *Acting Assistant Attorney General McLean* and *Beatrice Rosenberg*.

## PER CURIAM.

In view of the representation in the Solicitor General's argument at the Bar that the blood grouping test requirement here involved is presently and has been for some time applied without discrimination "in every case, irrespective of race, whenever deemed necessary," and in view of our remand of the case, we need not now pass upon the claim of unconstitutional discrimination.

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It appearing that the blood grouping tests made herein were in some respects inaccurate and the reports thereof partly erroneous and conflicting, the judgments heretofore entered are vacated and the case is remanded to the District Court with directions that the hearings before the Special Inquiry Officer or a Board of Special Inquiry be reopened, so that new, accurate blood grouping tests may be made under appropriate circumstances, and that relevant evidence may be received as offered on the issues involved. The excludability of petitioners remains to be determined upon those proceedings.