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Slave-Labor Suit Against Japanese Firms to Continue

Courts: Judge refuses to dismiss case, despite federal government's claim that it is unconstitutional.

By K. CONNIE KANG
TIMES STAFF WRITER

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Setting up a conflict between state and federal courts, a Los Angeles Superior Court judge has again refused to dismiss a Koreatown resident's slave-labor lawsuit against Japanese companies.

Judge Peter D. Lichtman, rejecting the federal government's contention that a state law permitting wartime forced-labor victims to seek redress in California is unconstitutional, on Thursday allowed 79-year-old Jae-Won Jeong's case to proceed.

Now a U.S. citizen, Jeong was forcibly taken to a slave labor camp in 1943 for refusing to be drafted into the Japanese Imperial Army. As a Korean, he was not required to serve in the Japanese army, he said, but his refusal won him hard labor breaking limestone by hand at a quarry for Japan's Onoda Cement Manufacturing Co. in the northeastern tip of the Korean peninsula. Korea was a Japanese colony from 1910 until the end of World War II in 1945. Jeong lodged the complaint against Onoda and its successor entities and affiliates in the United States under a 1999 statute that says wartime European and Asian forced-labor victims can bring cases in California until 2010.

In separate cases, U.S. District Judge Vaughn R. Walker in San Francisco recently took an opposite position, holding that the California law "infringes on the federal government's exclusive power over foreign affairs."

Lichtman said the California law does not touch on foreign policy but deals with the state's right "to determine its own timetable for initiating claims for past wrongs.

"Does the state of California have the right to control and/or determine its own statute of limitations? The answer must be in the affirmative," he wrote.

The judge concluded the state law does not usurp federal authority because it concerns claims by private individuals against private companies doing business in California, not against the government of Japan.

"How is it that adjudicating claims against private Japanese companies for past conduct will cause a diplomatic incident?" Lichtman asked. "The courts cannot tailor rulings to accommodate the displeasure of nonparty foreign governments."

In his strongly worded 13-page opinion, Lichtman also said he was struck by the inconsistency in the government's position concerning slave-labor victims from Europe and forced laborers during Japan's wartime expansion.

He observed that the government has not objected to suits seeking compensation for Nazi slave-labor victims but did in the suits against the Japanese companies.

"This policy, if it is a policy, appears to be legally unsupportable," he wrote.

Justice Department spokesman Charles Miller said the agency would not comment on the ruling.

Jeong's Century City attorney, Barry A. Fisher, called the decision a "landmark victory" for slave-labor litigants.

"It's a courageous decision by a judge who correctly rejected the position of the U.S. government and the federal court in San Francisco," Fisher said.

Douglas E. Mirell, one of the attorneys representing the Japanese firms, said he will seek immediate appellate review.

"Like his prior opinion, we believe Judge Lichtman's latest decision is fundamentally flawed," Mirell said.

Ultimately, it may require the U.S. Supreme Court to decide the case.

For now, the state and federal cases will wend their way on appeal by separate routes, lawyers said.

Under the state law, a World War II forced-labor victim is "any person who was a member of the civilian population conquered by the Nazi regime, its allies or sympathizers to perform labor without pay for any period of time between 1929 and 1945, by the Nazi regime, its allies and sympathizers, or enterprises transacting business in any of these areas under the control of the Nazi regime or its allies and sympathizers."
