

No. 102-63

JESSIE SHORT, et al.

v.

THE UNITED STATES

Before COWEN, Chief Judge, MARKEY, Chief Judge*, DAVIS,
SKELTON, NICHOLS, KUNZIG, and BENNETT, Judges.

O R D E R

This case comes before the court on several requests for review of the order issued July 14, 1975, by the trial judge wherein he: (1) granted the motions to intervene which were filed January 31, 1975, February 20, 1975, and April 7, 1975; and (2) ordered that notice to the absent members of the class of plaintiffs be given in accordance with his accompanying opinion. Upon consideration of the trial judge's order and opinion, the several requests for review, the responses thereto, and the rights and equities of all the parties,

IT IS ORDERED as follows:

(1) The trial judge's order allowing the motions to intervene of the 515 applicants named in the motions filed January 31, 1975, February 20, 1975, and April 19, 1975, is affirmed. The 515 applicants are held to be members of the class of plaintiffs, entitled to intervene as a matter of right, and their intervention dates back to the time the suit was instituted so that they, equally with all successful plaintiffs, will have rights to income dating back to 1957;

(2) The trial judge's holding that the 6-year statute of limitations is applicable to the action brought by the original plaintiffs, as well as by all plaintiffs in the class who have since been permitted

*Chief Judge of the United States Court of Customs and Patent Appeals, sitting by designation pursuant to 28 U.S.C. § 293(a).


to intervene, is hereby affirmed. See Capoeman v. United States, 194 Ct. Cl. 664, 672-77, 400 F.2d 1002, 1005-08 (1971); and

(3) To the extent that this action has been treated as a class action,

IT IS ORDERED that the class is hereby closed; that no notice shall issue to any alleged absent member of the class of plaintiffs and that no further interventions in this action shall be permitted. The trial judge's ruling contrary to this paragraph (3) of this order is hereby set aside.

APR 23 1976

BY THE COURT


Chief Judge

Judges Skelton and Bennett concur in all of the foregoing order except that they would hold that the 515 applicants should be permitted to intervene only as a matter of discretion; that their claim would not date back, and that their rights to income would extend only to the 6-year period preceding the date of their actual intervention.