

# Endo's Habeas Petition, Appeal & Relocation to Topaz

## U.S. District Court

Mitsuye Endo's habeas corpus petition was argued in the District Court for the Northern District of California before Judge Michael J. Roche. Habeas corpus petitions are usually managed quicker than others, but Judge Roche did not deliver a decision for over a year after the hearing. In July 1943, after the Supreme Court handed down decisions for two other Japanese incarceration cases (*Hirabayashi v United States*, 1943; and *Yasui v. United States*, 1943), Judge Roche dismissed Endo's petition on two grounds:

1. The petition did not prove unlawful detention.
2. Ms. Endo had not exhausted all her administrative means to be released from the Tule Lake camp.

## U.S. Court of Appeals

After Judge Roche denied the writ of habeas corpus, James Purcell filed immediately for appeal with the Ninth Circuit Court of Appeals. The case, however, was never ruled on at the court. Instead, the Ninth Circuit sent **certified legal questions\*** to the Supreme Court. On April 22nd, 1944, the case was filed at the Supreme Court of the United States.

## Relocation to Topaz, Utah

In September 1943, the WRA (War Relocation Authority) designated Tule Lake a high-security center for disloyal Japanese-Americans, forcing the Endo family to relocate for a third time. They transferred to the Topaz Relocation center in Utah, where summers were scorching and winters were freezing.

At Topaz, a representative from the WRA visited Ms. Endo and encouraged her to apply for indefinite leave from the camp. He guaranteed that her request would be granted—though she would not be allowed to return to California. Additionally, receiving leave would end her case, since if she was no longer incarcerated, she no longer needed a writ of habeas corpus. Aware of the consequences, Mitsuye Endo rejected the offer to leave the camp. She remained a prisoner at Topaz throughout the remainder of her legal proceeding, maintaining strong communication with Purcell about the camp conditions that benefited her petition, while awaiting the Supreme Court's decision.

**\*Writ of Habeas Corpus:** Used to bring a detainee before a court to decide if their imprisonment is lawful

**\*Certified legal questions:** Instead of immediately issuing a decision, a court of appeals can choose to seek guidance on a question of law from the Supreme Court.

In the event that this procedure, now before the Court for decision, is sustained, where will the end be? In the past Catholics have been persecuted because of a supposed loyalty to an Italian Pope, Jews because they are supposed to be internationalists without loyalty to any country, the Irish because they hate Great Britain, all foreigners because America is for the Americans. If this precedent is established, any minority group may land in a concentration camp under the guise an emergency exists which makes them dangerous to the country, because some military dictator ex cathedra, pronounces them suspect.

James Purcell's petition for a writ of habeas corpus. *California Historical Society Digital Library*

*“Since this case has a bearing on not only those who were formerly employed by the State of California but on all Japanese-Americans who are eager to go back to their homes in the Western Defense Command Area, I am willing to go as far as I can on this case.”*

-Mitsuye Endo



Topaz Incarceration Camp in Utah. *Calisphere/University of California Libraries*