

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 25, 2022

Lyle W. Cayce
Clerk

No. 21-20556
Summary Calendar

THY NGOC NGUYEN,

Plaintiff—Appellant,

versus

WALLACE L. CARROLL, FIELD OFFICE DIRECTOR, UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, HOUSTON; ALEJANDRO MAYORKAS, SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY; MERRICK GARLAND, U.S. ATTORNEY GENERAL; UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:21-CV-2077

Before DAVIS, JONES, and ELROD, *Circuit Judges.*

PER CURIAM:*

Appellant, Nguyen, challenges the district court's order granting appellees' motion to dismiss Nguyen's suit alleging that he was illegally

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

denied citizenship via naturalization and requesting an order naturalizing him.¹ We affirm.

Petitioner, who was born in Vietnam, has been a permanent resident of the United States since June 28, 1990. In October of 1992, Plaintiff was convicted in California of assault with a deadly weapon. He was sentenced to three years imprisonment and a \$1,000 fine.

In 2013 Plaintiff applied to the USCIS for naturalization as a United States citizen. His application was denied, and he was placed in removal proceedings because his 1992 conviction constituted an “aggravated felony. In 2018 Plaintiff again applied for naturalization, and USCIS again denied Plaintiff relief because he had been convicted of an “aggravated felony” and thus could not be of “good moral character” under the Immigration and Nationality Act. (“INA”), 8 U.S.C. §§1427(a), 1101(f)(8). The denial was upheld on administrative appeal to the United States Citizenship and Immigration Services.

Plaintiff then filed this civil action in district court seeking de novo review of his denied naturalization application. Defendants responded by filing a motion to dismiss the action.

We agree with the district court that because Nguyen had been convicted in California of assault with a deadly weapon in 1992, an aggravated felony, he could not be of good moral character as required for naturalization under the INA. *Id.*

For these reasons and those stated by the district court in its careful memorandum opinion and order of September 28, 2021, we AFFIRM the district court judgment.

¹ The district court had jurisdiction to consider this claim under 8 U.S.C. § 1421(c).