

## Yang v. Maugans

United States Court of Appeals for the Third Circuit

December 27, 1995, Dated

Nos. 95-7316, 95-7317, 95-7318, 95-7319, 95-7320 and 95-7321

**Reporter:** 1995 U.S. App. LEXIS 37147

YOU YI YANG; BONG WON YEE; GUANG FENG LI; CHU-SU CHEN; PIN LIN; YOUNG ZHONG PAN, a/k/a Pu Wing Chun; SO GEE DONG; CHANG CHUN LU; XIN-FEI ZHANG, a/k/a Xin-Fuei Zarang; TONG WAI ZHANG; DAI MIN LU; SHI CHUN ZHENG; CHUN HUA LIN; XING CHEN; SHUIDI ZHENG; GUO ZHEN XIE; LI YUN-YOU; MING LONG LIN; DEK FUN LIN; ZHONG CHEN; WANG CHAO LIN; NAN REN LIN; YENG MING LIN; CHAN BIN JONG; ZENG HUA ZHENG; YUNG KWON CHENG; RUI QUI HUANG; SHIMU CHEN; GUI LIN CHENG; REN YAN YANG; YONG ZHENG; KWAI SUNG CHENG; XUE KIAN CHEN; YI HONG LIN; GOU ZHI LEE; JIAN LE SHI; WU CHAO; XING-KWONG ZHENG, a/k/a Xing-Ke Zheng; XUE YAO LIN; JIAN BIN LIN; WING JONG JUNG; BIN HUA ZHENG; XIANG GUI CAO; ZUOXUN LEE; CHAI KAN CHENG; AI MING WANG; SING CHOU CHUNG; JAR JIAN WANG; HE PING CAO; ZENG-PING LUI; KOU ZHANG CHENG; GONG SHI; CAI WAN CHEN; YUE FENG LEE; ZHAO SHAN ZHAO; FEN-HOU CHEN; CHONG SHENG QU; XUE-DEE CHEN; MAO-JIANG LIN; WEN-HAO CHEN; JIAN FU CHAI; DE HUI CHEN; JI LI ZHENG; FU SING ZHENG; YE ZING CHAI; FA YU ZHUANG; SHI J ZHENG; ZHONG ZHOU; LIAN BING ZHENG; ZHAI YOUNG ZHU; XUE CAN ZOU; XYE RONG ZHAN; AU ZIA ZHAO; YUE FENG ZHANG; DA HE ZHENG; SHAN CIEN ZHANG; NAN WEI ZHANG; HUA YI ZHON; YE SONG; GIN GUAN WU; YEE JAN WANG; XIN CHANG SHANG; ZHONG WU LUO; HUSEH TA TANG; WANG WU DONG; YOU SHUI WANG; ZIM SHENG WHANG, SI OU; LI TUN CHENG; PAN SHAO MIN; YOU QUAN LIN; BI SHENG LIU; XU YONG LU; LU TIAN HAO; GHUAN LI LIU; RUI KAN LIN; XIANG KENG LIN; KONG ZHI LI; DUAN SHENG KIN; ZHON GUAN LI; JIN LIM FU; ZHE SHUNG JAIN; HYEI GWOR; WING-HON CHENG; DAI ZI HE; ZHI PING GAO; XIANG NMU GAO; YI CHENG DONG; EI YOUNG GIANG; SON SHING DONG; JIA RENG DONG; CHI CHI CHUNG; WOR OI CHIN; ZHU F. CHENG; SON CHING CHENG; GIN SEN CHENG; TIA SIAN CHEN; KAN GUAN CHEN; KAI Q. ZENG; GUO CHENG LIN; XIANG GUAN CAI; XIN SING ZHOU; YONG QUI CHI; YONG GING WU; CIAN GLUAN YONG; CHENG YE WU; MING GUANG LIU; CHUN LIN JIN; JAN YON CHUNG; ZHEN HUAN WENG; KANG DI WENG; CHENG XIAO DAI; GUO PING YE; CHANG QING ZHOU; MEI XI CHEN; JIAN BIAO WENG; DAR HUA WANG; FUI LIN; ZHE SHUNG JAN; ZHONG MING

TIAN; GUAN JUN WANG; JIAN YUN WAN; JIA WEN LIU; BAO JIN LUI; ZHANG SONG XHONG; XIN BIN ZHENG v. GEORGE MAUGANS, District Counsel of the United States Immigration and Naturalization Service - Baltimore District; DAVID L. MILHOLLEN, Director of the Executive Office for Immigration Review and Chairman of the Board of Immigration Appeals; RICHARD J. SHARKEY, District Counsel of the US Immigration and Naturalization Service - Philadelphia District; J. SCOTT BLACKMAN, District Director of the US Immigration and Naturalization Service - Philadelphia District; UNITED STATES IMMIGRATION & NATURALIZATION SERVICE; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; JANET RENO, Attorney General of the United States; DORIS MEISSNER, Commissioner of the US Immigration and Naturalization Service; MARY MAGUIRE DUNNE, Acting Director of the Executive Office for Immigration Review and Acting Chairman of the Board of Immigration Appeals; JANET RENO, Attorney General of the United States; DORIS MEISSNER, Commissioner of the U.S. Immigration and Naturalization Service; GEORGE MAUGANS, District Counsel of the U.S. Immigration and Naturalization Service, Baltimore District; DAVID L. MILHOLLEN, Director of the Executive Office for Immigration Review and Chairman of the Board of Immigration Appeals; RICHARD J. SHARKEY, District Counsel of the U.S. Immigration and Naturalization Service, Philadelphia District; J. SCOTT BLACKMAN, District Director of the U.S. Immigration and Naturalization Service, Philadelphia District; MARY MAGUIRE DUNNE, Acting Director of the Executive Office for Immigration Review and Acting Chairman of the Board of Immigration Appeals, Appellants, in 95-7316, 95-7317, 95-7318, 95-7319, 95-7320, 95-7321

**Prior History:** [\*1] (Appeal from matter regarding Dek Fun Lin at D.C. Cv. No. 94-59), (Appeal from matter regarding Shimu Chen at D.C. Cv. No. 94-192), (Appeal from matter regarding Chao Wu at D.C. Cv. No. 94-257), (Appeal from matter regarding Sing Chou Chung at D.C. Cv. No. 94-435), (Appeal from matter regarding Dar Hwa Wang at D.C. Cv. No. 94-560), (Appeal from matter regarding Zhao Shan Zhao at D.C. Cv. No. 94-601).

Original Opinion of October 24, 1995, Reported at: [1995 U.S. App. LEXIS 30649](#).

**Counsel:** For DEK FUN LIN, SING CHOU CHUNG, Appellees: Craig T. Trebilcock, Stock & Leader, York, PA. Frances P. Rayer, Pepper, Hamilton & Scheetz, Philadelphia, PA. Beverly J. Points, Ann Carr, Ann Carr, Attorney at Law, Lancaster, PA. Robert S. Kitchenoff, David H. Weinstein, Weinstein, Kitchenoff, Scarlato & Goldman, Philadelphia, PA. Kathleen Blanchard, Astra Merck, Inc., Wayne, PA.

For SHIMU CHEN, WU CHAO, ZHAO SHAN ZHAO, DAR HUA WANG, Appellees: Craig T. Trebilcock, (See above). Frances P. Rayer, (See above). Beverly J. Points, (See above). Robert S. Kitchenoff, (See above). David H. Weinstein, (See above). Kathleen Blanchard, (See above). Sharon J. Phillips, (See above).

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District, DAVID L. MILHOLLEN, Director of the Executive Office for Immigration Review and Chairman of the Board of Immigration Appeals, RICHARD J. SHARKEY, District Counsel of the US Immigration and Naturalization Service - Philadelphia District, J. SCOTT BLACKMAN, District Director of the US Immigration and Naturalization Service - Philadelphia District, ATTY GEN USA, DORIS MEISSNER, Commissioner of the US Immigration and Naturalization Service, MARY MAGUIRE DUNNE, Acting Director of the Executive Office for Immigration Review and Acting Chairman of the Board of Immigration Appeals, Appellants: Philemina M. Jones, David M. McConnell, United States Department of Justice, Office of Immigration Litigation, Washington, DC. Gary G. Grindler, United States Department of Justice, Office of Immigration Litigation, Washington, DC.

**Judges:** BEFORE: SLOVITER, Chief Judge, BECKER, STAPLETON, MANSMANN, GREENBERG, SCIRICA, COWEN, NYGAARD, ALITO, ROTH, LEWIS, MC KEE, and SAROKIN, Circuit Judges

**Opinion by:** Robert E. Cowen

<b>Opinion</b>
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**SUR PETITION FOR REHEARING**

The petition for rehearing filed by appellees having been submitted to the judges who participated in the decision of this court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court in banc, the petition for rehearing is denied. Judge Sarokin would have granted rehearing in [\*2] banc for the reasons set forth in his dissenting opinion.

By the Court,

Robert E. Cowen

Circuit Judge

Dated: DEC 27 1995