No. 86-228.

Argued April 27, 1987
Reargued October 13, 1987
Decided May 2, 1988

CERTIORA8

decision, a natural tendency to distort the decision. Moreover, the difficulty of establishing "but for" causality, by clear,
777 unequivocal, and convincing evidence many years after the fact, is so *777 great that we cannot conceive that Congress intended such a burden to be met before a material misrepresentation could be sanctioned. We do think, however, that the "procured by" language can and should be given some effect beyond the mere requirement that the misrepresentation have been made in the application proceeding. Proof of materiality can sometimes be regarded as establishing a rebuttable presumption. See, e. g., Basic Inc. v. Levinson, 485 U. S. 224, 245-249 (1988). Though the "procured by" language of the present statute cannot be read to require proof of disqualification, we think it can be read to express the notion that one who obtained his citizenship in a proceeding where he made material misrepresentations was presumably disqualified. The importance of the rights at issue leads us to conclude that the naturalized citizen should be able to refute that presumption, and avoid the consequence of denaturalization, by showing, through a preponderance of the evidence, that the statutory requirement as to which the misrepresentation had a natural tendency to produce a favorable decision was in fact met.[11] Such a construction gives ample meaning to both the "materiality" and "procured by" requirements.

JUSTICE STEVENS' concurrence would adopt a requirement of "but for" causality, emphasizing the necessity that the *778 Government establish, at least, that the misrepresenting applicant was in fact not qualified to be naturalized. This emphasis highlights another difficulty with "but for" causality: that requirement is simply not a conceivable construction of the "procured by misrepresentation" provision of § 1451(a) if one adheres, as JUSTICE STEVENS' concurrence purports to do, [redacted]

404-405 (1959). See also Ensign v. Pennsylvania, 227 U. S. 592, 599 (1913). Second, § 1101(f)(6) applies to only those misrepresentations made with the subjective intent of obtaining immigration benefits. As the Government acknowledges:

> "It is only dishonesty accompanied by this precise intent that Congress found morally unacceptable. Willful misrepresentations made for other reasons, such as embarrassment, fear, or a desire for privacy, were not deemed sufficiently culpable to brand the ap-ĭ ɔ ŧ s

Government "prove the existence of disqualifying facts." Id., at 523-524.[5] Until today, JUSTICE WHITE was the only Member *791 of the Court to have disagreed with thi

convincing evidence which does not leave the issue in doubt. We have recognized that this burden is substantially identical to the beyond-a-reasonable-doubt burden of proof borne by the Government in criminal cases. Ibid. Indeed, the factors that support the imposition of so heavy a burden are largely the same in both contexts — particularly critical are the immense importance of the interests at stake, ibid.; In re Winship, 397 U. S. 358, 363 (1970), the possibility of loss of liberty, Klapprott, 335 U. S., at 612; In re Winship, 397 U. S., at 363, the resultant stigmatization, Schneiderman v. United States, 320 U. S. 118, 122-23 (1943); In re Winship, 397 U. S., at 363, and the societal interest in the reliability of the outcome, id., at 363-364. The ud7

800 citizen *800 for essentially the same conduct, however, does not suggest that either of the paths should be made more lenient than Congress intended.

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The Government attempted to prove the existence of a disqualifying fact before the District Court by introducing videotaped deposition testimony, which it asserted p

808 the misrepresentations "had a natural tendency to influence the decisions of the Immigration and Naturalization *808 Service." Ante, at 772. I do not disagree with this definition, but the Court's application of the definition in this case is flawed.

To begin with, the Court finds it proper under § 1451(a) to consider only the misrepresentations petitioner made in his naturalization proceedings but not those made in his earlier visa proceedings. The view of the United States is much more persuasive: the misrepresentations made by petitioner at the visa stage were instrumental to his procuring naturalization, for by obtaining the visa petitioner obtained lawful admission to residence in this country, which is one requirement for naturalization under § 1429. See also Fedorenko, 449 U. S., at 518-520 (BLACKMUN, J., concurring in judgment). The Court responds that by that logic, any misrepresentation that helps an individual to obtain any prerequisite to naturalization, such as English literacy, would be considered material. These two things, however, are not the same, and the Court's supposed extensio[redacted]

[7] JUSTICE WHITE considers the pr

"QUESTION: Do you consider that facilitating getting in?

"MR. KLONOFF: We would.

"QUESTION: Just to facilitate — to make it quicker so the fellow doesn't have to figure out how to spell Salvator.

"MR. KLONOFF: That would be our position. That's consistent with the statutory —

"QUESTION: Wow, that's a tough position, and I think there are probably a lot of people that are excludabl