

18:14

NISHIOKA, SHIGEYUKI

1950-1954

78/177

c

Shigeyuki Nishioka
149 West 84 th Street
New York, N.Y.
July 14, 1950

Mr. Wayne M. Collins
Attorney at Law
Mills Tower, 220 Bush Street
San Francisco, California

Dear Mr. Collins:

Thank you very much for your letter of June 30, 1950.

As, I have reported to you last September through our spokesman, Mr. Ohashi of Seabrook, my plans and intention at the present is to remain in the States.

With this present incident on, I am interested in knowing few things as:

Would it make any difference or have any difficulty for those of us who have hopes on remaining in the States—such as compulsory deportation to Peru or Japan. Or, would the hope of acquiring the right of residence have chance of progressing without any interference?

Also, I would like to have my mailing address which seems to be incorrectly reported, changed to read 149 West 84 th Street instead of 148 West 84th Street. *OK*

Thank you again for your constant assistance which is appreciated very much.

Awaiting for your kind attention I remain,

Shigeyuki Nishioka

July 21, 1950

Mr. Shigeyuki Nishioka
149 West 84th Street
New York, N.Y.

Dear Mr. Nishioka:

Replying to your letter of July 14th, I wish to state as follows:

When and as you have been in this country for a period of seven years, you will be eligible to apply for and to receive a suspension of deportation and to be granted permanent resident status in the United States. The application will be made by me on your behalf as soon as you have resided here for the seven year period.

I would thank you therefore to write me and let me know the date that you were brought into the U.S. so that your application may be made promptly when the seven year period has expired.

You are not in any danger of being deported either to Japan or to Peru.

If you wish to return to Peru you may have your friends or relatives there apply to the Minister of Foreign Affairs to act as your sponsors on your repatriation to Peru. My letter to you outlined the steps to be taken concerning a repatriation to Peru if you desire to return there.

Very truly yours,

149 West 84th Street
New York City, N. Y.
August 17, 1950

Mr. Wayne M. Collins
Mills Tower, 220 Bush Street
San Francisco 4, California

Dear Mr. Collins,

Received your letter of July 21st. Thank you very much for your ever kind and prompt attention.

I arrived at New Orleans, La. on March 21st of 1944. So on March 21st of next year, 1951, I would be here in this country for a period of seven years.

I hope that you will assist me then, in making the proper application to apply for and to receive a suspension of deportation and to be granted permanent resident status in the United States.

Thank you again.

Very truly yours,

Shigeyuki Nishikawa

Shigeyuki Nishioka
149 West 84th Street
New York, N. Y.



Mr. Wayne M. Collins
Mills Tower, 220 Bush Street
San Francisco 4, California

1701



BEFORE THE BOARD OF IMMIGRATION APPEALS

BEFORE THE COMMISSIONER OF IMMIGRATION

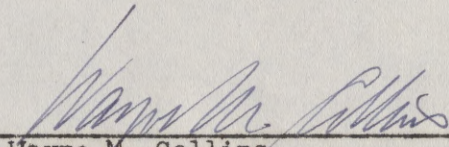
In the Matter of
SHIGEXUKI NISHIOKA

)
) No. _____
)
)

APPLICATION TO REOPEN CAUSE FOR A SUSPENSION OF DEPORTATION

--- SHIGEXUKI NISHIOKA hereby requests
that the deportation proceeding heretofore instituted against him
be reopened for the purpose of enabling him to apply for a sus-
pension of deportation under the provisions of Title 8 USCA, Sec. 115
(c) effective as at July 1, 1948, (Public Law No. 863), on the ground
that he is and has been, for a period of time in excess of five
years, a person of good moral character and that he has resided
continuously in the United States for seven years or more and now so
resides and was so residing on July 1, 1948, the effective date of said
Act.

WHEREFORE, applicant requests that said cause be reopened for the
aforesaid purposes to enable applicant to introduce oral and documentary
evidence of his eligibility to apply for and to receive the benefits
afforded by the provisions of Title 8 USCA, Sec. 155 (c), and regula-
tions thereunder and for the grant of said application for suspension
of deportation.


Wayne M. Collins
1701 Mills Tower
San Francisco 4, Calif.

Attorney for Applicant

AFFIDAVIT OF MERITS

STATE OF CALIFORNIA,)
CITY AND COUNTY OF SAN FRANCISCO.) SS.
-----)

Wayne M. Collins of said City and County and State, being first duly sworn, deposes and says: that he is the attorney for _____ SHIGEKYUKI NISHIOKA, the applicant in the foregoing application names; that he is informed and believes and therefore alleges upon such information and belief that the applicant is and has been a person of good moral character for a period of time in excess of five years and has resided continuously in the United States for seven years or more and now so resides and was so residing on July 1, 1948, when Title 8, USCA, Sec. 155 (c), as amended, became effective; that applicant desires to have his deportation proceeding reopened to enable him to apply for a suspension of deportation under the provisions of Title 8 USCA, Sec. 155 (c), by reason thereof, and is ready, willing and able to submit at such reopened hearing oral and documentary evidence demonstrating his said eligibility to apply for and to be granted such suspension of deportation.

Wayne M. Collins
Wayne M. Collins
1701 Mills Tower
San Francisco 4, Calif.

Attorney for Applicant.

Subscribed and sworn to before me

this 27th day of July, 1951.

Ernest R. Bessing
Notary Public in and for the City and
County of San Francisco, State of California.

My Commission Expires
December 23, 1952

August 27, 1951

District Director
U.S. Immigration and
Naturalization Service
Department of Justice
New York, New York

Dear Sir:

In re: Shigeyuki Nishioka
New York, New York

Enclosed find copy of application to
reopen cause and to enable the applicants
to apply for a suspension of deportation,
the originals of which were this date for-
warded to the Commissioner of Immigration,
Washington, D. C.

Very truly yours,

Wayne M. Collins
Attorney at Law
Mills Tower, 220 Bush Street
San Francisco 4, California

August 27, 1951

The Commissioner of Immigration
Washington, D. C.

Dear Sir:

In re: Shigeyuki Nishioka
New York, New York

Enclosed find three original application forms to reopen cause for the purpose of enabling Shigeyuki Nishioka, Peruvian-Japanese, to apply for a suspension of deportation, together with accompanying affidavit of merits and notice of appearance. An original application form is also being sent to the District Director, USI&NS, New York, inasmuch as Mr. Nishioka resides at 149 W. 84th St., New York, N.Y. A notice of appearance had been forwarded previously to the Immigration Office at New York.

If the matter is not now pending before you, I would thank you to transmit the enclosed application for suspension of deportation to the Board of Immigration Appeals if the cause is pending before that Board.

Very truly yours,

Copy to:
USI&NS, New York, N.Y.

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
WASHINGTON 25, D. C.
October 3, 1951

PLEASE ADDRESS REPLY TO

AND REFER TO THIS FILE NO.

A-5982000 WU

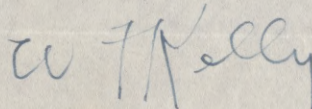
Wayne M. Collins, Esquire
220 Bush Street
San Francisco 4, California

Dear Sir:

Reference is made to your letter of August 27, 1951, enclosing three original application forms to reopen the case of SHIGEYUKI NISHIOKA for the purpose of applying for suspension of deportation.

The file of this office shows that on June 14, 1951, the Board of Immigration Appeals withdrew the order and warrant of deportation, and directed that the proceedings be reopened to permit Mr. Nishioka to make application for suspension of deportation. As the subject is residing in New York City, the reopened hearing will be held under the jurisdiction of the District Director of this Service in New York and it is suggested that any representations you may desire to make in the matter be made to that official.

Sincerely yours,



W. F. Kelly
Assistant Commissioner
Enforcement Division

3-2030
10/29/51

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
70 Columbus Ave., New York 23, N. Y.

November 8, 1951

File No.
0300-220188

Mr. Shigeyuki Nishioka
149 West 84th Street
New York, N.Y.

Dear Sir or Madam:

YOU ARE DIRECTED TO APPEAR at Ellis Island, New York Harbor on Nov. 16, 1951 for hearing or such further hearing as may be necessary under the warrant of arrest which was served upon you.

You must appear at Slip #7, South Ferry, New York at 10:30 AM to go aboard the ferry which leaves promptly at 10:45 A.M..

The hearing under said warrant is being held pursuant to authority contained in and jurisdiction conferred by Sections 19 and 20 of the Act of February 5, 1917, as amended (8 U.S.C. 155, 156).

In the event that you believe that your deportation from the United States would result in a serious economic detriment to your United States citizen or legally resident alien spouse, parent or minor child, or in the event you have resided in the United States for the past seven years, you should execute and bring with you to the above hearing the enclosed Form I-256 and the supporting documents described therein. This application must be executed even though you have previously submitted an application for suspension of deportation.

You are advised that at the hearing you have the right to be represented by counsel of your own choice and at your own expense, or by any other person duly qualified to practice before the Immigration and Naturalization Service. You are further advised that you should bring to the hearing any documents which you desire to have considered in connection with the case. If any of these documents is in a foreign language, you should bring the original and certified translation thereof.

You are further advised that if you are deported or if you depart under an order of deportation, you will not be permitted to enter the United States within one year after the date of your departure. If you desire to enter the United States after one year has elapsed from the date of your deportation or departure under an order of deportation, you must obtain permission from the Attorney General to apply for admission into the United States. If you enter the United States at any time after deportation or departure under an order of deportation without receiving permission from the Attorney General, you will be guilty of a felony and upon conviction be liable to imprisonment of not more than two years or a fine of not more than \$1,000, or both such fine and imprisonment.

Your failure to appear will result in this Service's taking steps under the provision of the Internal Security Act of 1950 to remand you into the custody of this Service.

Very truly yours,

cc: Wayne M. Collins, Esq.
220 Bush Street
San Francisco 4, Calif.

EDW. J. SHAUGHNESSY
District Director, New York District

By:

Jacob Auerbach
Acting Chief, Expulsion Section

cc:

Attachment

REPLY

file

add
same

Shigeyoshi Nishioka
149 West 84th Street, New York 24, N.Y.
Nov. 17, 1951.

Mr. Wayne M. Collins
attorney at law
Mills Tower 220 Bush Street
San Francisco
California.

Dear Mr. Collins :

My hearing is scheduled at Ellis Island
immigration Board on Tuesday, November 27, 1951.

I am very grateful for all the things
you have done for me and making it possible for the coming
hearing.

Concerning the coming hearing, I would
like to know the following :

First, whether I should engage a lawyer
to come with me to the hearing,

Second, what is the most important item
concerning the hearing ?

I would be very happy if you could make
some suggestions so I would know what to expect at the hearing/

I hope that I will receive a reply from
you before Tuesday Nov. 27, 1951.

Thanking you for everything in advance,
I will write to you again after the hearing is over.

Sincerely yours

Shigeyuki Nishioka

Peruvian

March 21, 1952

District Director
Immigration and Naturalization Service
70 Columbus Ave.,
New York 23, N.Y.

Dear Sir:

Re: Shigeyuki Nishioka
File No. 0300-220188

On August 27, 1951, I applied to the Commissioner of Immigration, Washington, D.C., to reopen the cause of the alien above-named to enable him to apply for suspension of deportation. On November 8, 1951, your office forwarded a notice directing the alien to appear for hearing on Nov. 16, 1951.

I would be grateful if you would supply me with a copy of the recommendation that was made following his hearing.

Very truly yours,

COPY FOR
PARTY-IN-INTEREST

ADJ-302
(2-28-51)

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

File: 1-5982000 - New York (0300-220122)

Appeal - 15

In re: SHIGETOKI NISHIOKA

APR 16 1952

IN DEPORTATION PROCEEDINGS

IN BEHALF OF RESPONDENT: No one

CHARGES:

Warrant: Act of 1924 - No immigration visa
Act of 1918 - No passport
Act of 1924 - Ineligible to citizenship

Lodged: None

APPLICATION: Suspension of deportation

DETENTION STATUS: Released on conditional parole

DISCUSSION: Upon consideration of the entire record, including the exceptions taken, the recommended order of the officer conducting the hearing is hereby adopted.

ORDER: It is ordered that the alien be deported from the United States, pursuant to law, on the charges in the warrant of arrest.

ASSISTANT COMMISSIONER
ADJUDICATIONS DIVISION

3-1490
Rev. 4/14/52

*Recd
5/5/52*

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Ellis Island, New York Harbor 4, N. Y.

April 29, 1952

Please refer to this
File Number:

0300-220188

Wayne M. Collins
Attorney at law
1701 Mills Tower
San Francisco 4, California.

Re: **SHIGEYOMI NISHIOKA**

Dear Sir:

The attached is a copy of the decision and order of the Commissioner of Immigration and Naturalization in your case.

This order is final unless an appeal is taken to the Board of Immigration Appeals in Washington, D. C., and notice of appeal is filed within **fifteen** days (not including Saturdays, Sundays, and holidays) after receipt of this notice.

If appeal is desired, notice of appeal, forms for which are attached, should be executed in triplicate. Two copies must be filed with this office and the third copy must be filed directly with the Board of Immigration Appeals, Department of Justice, Washington, D. C.

Very truly yours,

EDW. J. SHAUGHNESSY
District Director, New York District

By: *Monte Moutal*

MONTE MOUTAL
Chief, Expulsion Section

REGISTERED MAIL
enclosures
bk

May 5, 1952

Edw. J. Shaughnessy, Esq.
District Director, U.S. Immigration Service
Ellis Island, New York Harbor 4, N.Y.

Attn: Monte Moutal
Chief, Expulsion Section

Gentlemen:

Re: Shigeyoki Nishioka
0300-220188

I wish to thank you for your letter of April 29, 1952, containing the order of April 16, 1952, ordering the alien deported.

I would be grateful if you would forward me a transcript of the hearing upon which that order was based so that I may be able to review the facts of the cause in order to be enabled to take exceptions to that order direct to the Commissioner of Immigration. In order to enable me to do this I would be grateful if you would extend my time within which to take the necessary appeal to the Board of Immigration Appeals.

Very truly yours,

3-1932
Rev. 11/19/51

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Ellis Island
New York Harbor 4, New York

Recd 5/14/52

May 9, 1952

Please refer to
this file number: 0300-220188

WAYNE M. COLLINS, ESQ.
Mills Tower, 220 Bush St.
San Francisco 4, California.

RE: SHIGEYOKI NISHIOKA

Dear Sir: ~~Mr. Collins~~

In accordance with your request there is enclosed a copy of the record of hearing in the above case.

Please complete and return the attached Form 3-655. A self-addressed envelope is enclosed for your convenience.

With reference to your letter of May 5, 1952, requesting an extension of time within which to file an appeal to the Commissioner's order, please be advised that such request must be made directly with the Commissioner of Immigration and Naturalization, Washington, D.C.

Very truly yours,

EDW. J. SHAUGHNESSY
District Director
New York District

By: MONTE MOUTAL

~~JACOB ANTERBACH~~
Acting Chief, Expulsion Section

bk
encls.

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
NEW YORK, NEW YORK

----- File No.: A-5-982000

In the Matter of	:	Hearing Officer: Joseph J. Mack
	:	Stenographer: Elaine Phipps
Deportation Proceedings	:	Interpreter: N.C. Adhoney
- Against -	:	Language: Spanish
Shigeyoki Nishioka	:	Hearing held at: Ellis Island
	:	New York Harbor
	:	Date: November 16, 1951
-----	:	Counsel: None

HEARING OFFICER TO RESPONDENT IN THE ENGLISH LANGUAGE:

Q What is your full, true and correct name?

A Shigeyoki Nishioka.

Q Have you at any time used any other name or been known by any other name?

A No.

Q Where do you live?

A 149 W. 84 Street, New York, New York.

Q Do you speak and understand the English language?

A Not too well. I speak in Spanish.

Q Do you desire to have a Spanish interpreter or do you feel you can speak English sufficiently so that you can understand the questions asked of you?

A I can understand.

Q If you do not understand any question you can ask for a Spanish interpreter. Do you understand?

A Yes.

Q Will you stand please and raise your right hand? Do you solemnly swear that the statements you are about to make in this proceeding will be the truth, the whole truth and nothing but the truth so help you God?

A Yes.

Q Are you the same person who was given a hearing on April 7, 1947 at Sante Fe Internment Camp, Sante Fe, New Mexico under a Warrant of Arrest dated March 31, 1947?

A Yes.

Q You are advised that the hearing in your case has been ordered re-opened by the Board of Immigration Appeals, June 14, 1951 in order to give you an opportunity to make application for suspension of deportation. Do you understand?

A Yes.

Q In this proceeding you have the right to be represented by counsel of your own choice and at your own expense. Such counsel may either be an attorney at law or any other person authorized to practice before the Immigration Service or the Board of Immigration Appeals, or you may represent yourself if you want to. What do you want to do?

BY HEARING OFFICER:

At this point, I think it might be advisable to use a Spanish interpreter.

Let the record note that Mr. Adhoney will act as Spanish interpreter.

HEARING OFFICER TO RESPONDENT (THROUGH INTERPRETER)

Q You are advised that in this proceeding you have the right to be represented by counsel of your own choice and at your own expense, which counsel may be either an attorney at law or other person authorized to practice before the Immigration Service and the Board of Immigration Appeals or you may represent yourself if you so desire. What do you want to do?

A I want a lawyer.

Pursuant to your request for counsel, the hearing in your case is now adjourned until Tuesday, November 27, 1951 at 9AM

HEARING ADJOURNED

JJM:EP

R 11/16/51

T 11/19/51

A5-982000

I CERTIFY the foregoing to be a true and correct transcript of my shorthand notes of the testimony taken by me in the above case.

Elaine Phipps

ELAINE PHIPPS
Stenographer

I CERTIFY that to the best of my knowledge and belief, this record is a true report of everything that was stated during the course of the hearing, including oaths administered and the rulings on objections, except statements made off the record.

Joseph J. Mack

JOSEPH J. MACK
Hearing Officer

* * * * *

Counsel or Representative: No one

- 9 -

Q Have you at any time been arrested, charged with, or convicted of any crime or violation of law either in the United States or anywhere else?

A I was never arrested.

Q Has there been any change in your marital status since you were given a hearing on April 7, 1947?

A Always the same - never changed the status.

Q Are you now or have you been at any time a member of any organization of any kind or character either in the United States or anywhere else?

A No.

Q Did you at any time believe in, teach, or advocate any of the principles of Communism, Fascism or Nazism?

A Never.

Q Are you now or have you ever been, at any time, a member of any organization or any organization affiliated with any organization which either taught or presently teaches any of the principles of Communism, Fascism, or Nazism?

A Never.

Q Do you have any evidence to show that you are presently legally and lawfully in the United States?

A No.

Q Are you presently in good mental and physical condition?

A Yes.

Q On the basis of the record it appears that you are deportable as charged in the warrant of arrest. You may, if you want to, ask that your deportation be suspended. In order to be eligible for this relief it is necessary for you to show that you have been a person of good moral character for the past five years and that you have resided in the United States for seven consecutive years and were a resident of the United States on July 1, 1948. Do you wish to make application for this relief?

A Yes.

BY HEARING OFFICER:

I now enter of record as EXHIBIT A Form I-256 executed by the respondent on November 16, 1951.

HEARING OFFICER TO RESPONDENT:

Q You arrived in the United States on March 21, 1944 by plane from Peru. Is that correct?

A Yes.

Q Did you enter the United States voluntarily on that occasion?

A By force.

Q You were brought in as an enemy alien from Peru for internment in the United States. Is that correct?

A Yes, I believe it is.

Q And upon arrival you were interned in an enemy alien camp in the United States. Is that correct?

A Yes.

Q And you remained in such enemy alien camp until when, do you recall?

A About two years and a half.

Q At what camps were you during that period of time?

A I was in Camp Kennedy, Sante Fe, New Mexico; San Pedro, California; and Crystal City, Texas.

Q According to the immigration records you were interned until August 16, 1946. Is that the correct date?

A Yes.

Q And since that date you have been on parole as an enemy alien. Is that right?

A Yes.

Q Did you ever make any effort to return to Peru, the country from which you came?

A No.

Q Were you advised that you could return to Peru at any time if you wanted to go back to Peru?

A After seven years over here I have changed my mind. I don't want to return to Peru.

Q At the time of the previous hearing in April of 1947 were you offered an opportunity to return to Peru?

A Yes.

Q Did you produce this letter from the Transcontinental Mercantile Corporation signed by Stanley Cocta and this letter dated September 15, 1951 with regard to your employment signed by Motaki Shigaki?

A This is my friend and this is my boss.

BY HEARING OFFICER:

I now enter of record as EXHIBIT B documents previously referred to.

HEARING OFFICER TO RESPONDENT:

Q Do you have any close relatives living in the United States?

A No one.

Q Do you have any close relatives living in Peru? If so, who are they?

A Yes, I have my sister and my cousin.

Q And do you have any close relatives in Japan?

A Yes, I have my father and mother and my sisters.

Q Do you have any additional evidence you want to submit in your own behalf?

A Now, I don't have it.

Q If you should be given a chance to leave the United States at your own expense instead of being deported, would you avail yourself of this privilege?

A If they deport me I will go but I will not leave voluntarily.

Q Have you understood all the questions that were asked of you during this hearing?

A Yes.

Q Do you have any further statement you would like to make in your own behalf?

A The reason I want to stay here is because I have my sweetheart here and I have left Peru seven years. I don't have any ambition to go there again. Here I am getting ready to marry this girl that I love and at the same time I learned the trade of watchmaking, jewelry, and there is a big opportunity for me to stay here and in Japan I have nothing there that I really can go to.

Q If you should be deported, to what country would you want to be sent?

A If they deport me I would go to PERU.

Q I shall now state my decision in your case. Listen carefully because at the conclusion you will be afforded an opportunity to state for the record whether you agree or disagree with my decision. If you disagree with my decision, state so, because that will amount to taking an appeal to the Commissioner of Immigration and Naturalization. If you fail to take any exception or state any objection on the record, my decision shall become the final order in your case. Do you understand?

A Yes, I understand.

HEARING OFFICER TO RESPONDENT:

Q Have you understood my decision as translated to you?

A I understand.

Q If you disagree with my decision you may state your objections on the record.

A The reason that I want to stay here in this country - here I have learned a trade where I can make a living and I love this country more than anything else and I contemplate marriage here with the one I love and if I go to

Peru it would be very difficult for me to earn a living there and to start life over again, and also if I go to Japan it will be hard for me to start life over again, but here I find everything that my heart desires so therefore I would like to stay here.

Q It will be deemed for the record that you have taken exception to my decision. You have, under the law, until December 4, 1951, within which time you may send a letter to the District Director, New York District, in which you may set forth in great detail any exceptions or objections or arguments which you ^{may} have as to my decision. Do you intend to avail yourself of this right?
A I will submit.

BY HEARING OFFICER:

Hearing is closed.

I CERTIFY the foregoing pages nine to thirteen, inclusive, to be a true and correct transcript of my shorthand notes taken in the above case.

John W. Petrilla
JOHN W. PETRILLA
Stenographer

I CERTIFY that, to the best of my knowledge and belief, this record is a true report of everything that was stated during the course of the hearing, including oaths administered and the rulings on objections, except statements made off the record.

Joseph J. Mack
JOSEPH J. MACK
Hearing Officer

JJM/jwp
R.-11/27/51
T.-1/30/52

3-655
Rev. 10/19/51

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Ellis Island,
New York Harbor 4, N. Y.

File No. 0300-220188

Date _____

In re: SHIGEYOKI NISHIOKA

I have been retained as attorney or representative on behalf of the above-named alien, the subject of deportation proceedings.

Having requested that I be loaned a copy of the testimony adduced and the proposed summary, findings, conclusions and order of the Hearing Officer for the preparation of my brief in the case of the above-named subject, I hereby acknowledge receipt of copy of such record and pledge myself that no copy thereof will be made and that the said copy delivered to me will be surrendered upon final disposition of the case, or in the event of my withdrawal prior thereto.

I further pledge myself to prevent copy of said record from falling into the hands of any person other than myself.

Wayne M. Collins
(Signature of attorney or representative)

1701 Mills Tower
(Address)

San Francisco, Calif
(Telephone No.)

May 14, 1952

District Director
Immigration and Naturalization Service
Ellis Island
New York Harbor 4, New York

Attn: Mr. Monte Moutal
Chief, Expulsion Section

Dear Sir:

Re: Shigeyoki Nishioka
File No. 0300-220188

Enclosed find duplicate original notices of appeal in the above-entitled matter. A like original has been forwarded to the Board of Immigration Appeals.

I have also written that Board requesting it to grant me an extension of time within which to file a brief before that Board in this cause.

I acknowledge receipt of your letter of May 9, 1952, together with a copy of the transcript of the hearing. I would be grateful if you would forward to me a copy of the recommendation made by the hearing officer. It is that document which I lack which prevents me from being able to prepare a proper brief in the matter.

Very truly yours,

May 14, 1952

Board of Immigration Appeals
Department of Justice Building
Washington, D. C.

Gentlemen:

In re: Shigeyoki Nishioka
File No. 0300-220188

Enclosed find notice of appeal in the above-entitled cause. I am enclosing herewith a copy of my letter to the District Director of the New York District which is self-explanatory.

In view of the fact that I am not yet in possession of a copy of the hearing officer's recommendation, I am unable to prepare a proper brief. In consequence, I request an extension of time within which to file a brief herein.

Very truly yours,

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

Ellis Island, N.Y.H.
June 2, 1952

0300-220188

Wayne M. Collins, Esq.,
Mills Tower, 220 Bush St.,
San Francisco, California

Re: Shigeyoki Nishioka

Dear Sir:

Receipt is acknowledged of your letter dated May 14, 1952.

Please be informed that on April 3, 1952 we sent you a copy of record of hearing together with summary of the Hearing Officer which you acknowledged under date of April 8, 1952.

Very truly yours,

EDW. J. SHAUGHNESSY
District Director
New York District

By:

Monte Moutal
Monte Moutal, Chief *DM*
Expulsion Section

db

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Ellis Island
New York Harbor 4, New York

Mr. Wayne M. Collins
Attorney at Law
Mills Tower, 220 Bush Street
San Francisco, 4, California

Please refer to
this file number: 0300-220188

RE: SHIGEYUKI NISHIOKA

Dear Sir ~~on this date~~

In accordance with your request there is enclosed a copy of the record of hearing* in the above case.

Please complete and return the attached Form 3-655. A self-addressed envelope is enclosed for your convenience.

Very truly yours,

EDW. J. SHAUGHNESSY
District Director
New York District

By:

Jacob Auerbach
JACOB AUERBACH,
Acting Chief, Expulsion Section

mn1

encls.

**summary

*4/8/52 mailed in Form 3-653 Rev. 10/19/51
for copy of record to use to prepare
brief*

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

ORAL DECISION OF THE HEARING OFFICER ENTERED ON NOVEMBER 27, 1951.

File: A-5 982 000

New York: 0300-202188

In re: SHIGEYOKI NISHIOKA

IN DEPORTATION PROCEEDINGS

In behalf of respondent: No one

CHARGES:

Warrant: Act of 1924 - no immigration visa
Act of 1918 - passport
Act of 1924 - ineligible to citizenship

Lodged: None

APPLICATION: Suspension of Deportation - Seven years residence

DETENTION STATUS: Released upon conditional parole

STATEMENT: This case was reopened by order of the Board of Immigration Appeals dated June 14, 1951, for the purpose of affording the alien an opportunity to make application for suspension of deportation.

DISCUSSION: Upon consideration of the entire record the findings as to deportability made by the officer conducting the previous hearing is hereby adopted.

*Int
mt*
The alien has testified that he is single and has never been married. He has no close relatives in the United States. He stated that he has a sister and cousin residing in Peru and his parents and sisters residing in Japan. He is presently employed as a watchmaker earning \$25 a week and has stated that he has \$2,400 in cash, including cash in banks, and also has other assets on which he fixes a value of \$450. From the records of the Immigration Service it appears that this alien has been present in the United States continuously since March 21, 1944. The evidence in the case shows that this alien was brought in the United States from Peru on March 21, 1944 as a Japanese enemy alien for internment. This was an involuntary admission into the United States. It is obvious that at that moment he had no intention of establishing a residence in the United States. He was actually physically interned in camps provided for the detention of enemy aliens until August 16, 1946 and has since that date been paroled as an enemy alien. He has stated that subsequent to August 16, 1946, and that some time during the year 1947 he was afforded an opportunity to depart voluntarily from the United States. The fact that he was physically here in the United States prior to 1947 does not of itself establish such residence in the

United States as may be considered in order to seek the benefits of Section 19(c)(2)(b) of the Immigration Act of 1917, as amended. Suspension of deportation is a form of relief which is discretionary in itself and may not be claimed as a matter of right. As previously indicated, the alien has no close family ties in the United States and, as previously pointed out, the record does not conclusively establish that the alien has resided in the United States for seven consecutive years. However, even if it be assumed that he has been a resident of the United States for a period of seven years, it is believed that suspension of deportation is not warranted in the instant case, as it is not deemed that this alien should now reap the benefits of his compulsory and involuntary presence in the United States for at least during the period between March 21, 1944 and August 16, 1946. He admits that he did not want to come to the United States in 1944 and had been held here against his desire. To now permit him to make claim that he voluntarily resided in the United States during this period of time would be permitting him to take an unfair advantage. In view of this fact, it is not deemed necessary to conduct a character investigation of the present case. There being no adverse information of record, it is deemed that he has been a person of good moral character during the past five years and he must be eligible for voluntary departure. However, this alien has specifically indicated that he has no desire leaving the United States unless compelled to do so by law. In view thereof it is inappropriate to consider authorizing voluntary departure in lieu of deportation.

DECISION: It is ordered that the application for suspension of deportation be denied.

It is further ordered that the alien be deported from the United States pursuant to law on the charges set forth in the warrant of arrest.

JOSEPH J. MACK
Hearing Officer

JJM/jwp
R.-11/27/51
T.-1/30/52

June 6, 1952

Board of Immigration Appeals
Department of Justice
Washington 25, D.C.

Gentlemen:

In re: Shigeyuki Nishioka
File No. 0300-220188

Enclosed find brief for appellant in
the above-entitled cause.

Duplicate original copies of said brief
have been forwarded to the District Director,
U.S. Immigration and Naturalization Service,
New York.

Very truly yours,

Enc.

June 6, 1952

District Director
Immigration and Naturalization Service
Ellis Island
New York Harbor 4, New York

Dear Sir:

In re: Shigeyuki Nishioka
File No. 0300-220188

Enclosed find duplicate original briefs
for appellant in the above-entitled cause.

An original brief has been filed with
the Board of Immigration Appeals.

Very truly yours,

Encs.

file Peruvian

WAYNE M. COLLINS
Attorney at Law
Mills Tower, 220 Bush Street
San Francisco 4, California

June 25, 1952

Mr. Shigeyuki Nishioka
149 W. 84th Street
New York, N.Y.

Dear Mr. Nishioka:

Enclosed find a copy of the brief I have filed on your behalf with the "Board Of Immigration Appeals" in the appeal I took on your behalf to that Board from the adverse recommendations of the hearing officer and the Commissioner of Immigration in your case.

This copy is forwarded to you simply to keep you informed from time to time of the progress of the case and of your status in this country.

Very truly yours,

Encs.

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BEFORE THE BOARD OF IMMIGRATION APPEALS

In the Matter of

SHIGEYUKI NISHIOKA

A - 5-982-000

N.Y. 0300-202188

BRIEF FOR APPELLANT

On November 27, 1951, the hearing officer, Joseph J. Mack, recommended that the alien Shigeyuki Nishioka, a native of Japan and resident of Peru, be deported on the charges stated in the warrant of arrest. On April 16, 1952, the Assistant Commissioner, Adjudications Division, contrary to law and the evidence, denied him the relief provided by Title 8 USCA, Sec. 155 (c) and ordered him deported on the charge stated in the warrant of arrest.

Because the Peruvian Government thus far has not granted the appellant authority to return to Peru, in which country he had acquired residence, his efforts to return there have not yet proved successful. Further, his counsel and the State Department still are endeavoring to persuade the Peruvian authorities to allow his entry to Peru. Of the causes and reasons connected with his failure to depart from the U.S. the Commissioner had actual knowledge and takes administrative notice. Annexed hereto is a copy of the letter dated May 29, 1952, from Hon. Harold H. Tittman, our Ambassador to Peru, demonstrating that our Embassy at Lima, Peru, is endeavoring to obtain the consent of the Peruvian Government to the repatriation of the appellant and similarly situated Peruvian-Japanese whom it and our own Government long have abused. The original of said letter has been forwarded to the Commissioner of Immigration for examination.

The appellant was brought to this country and interned on March 21, 1944, under an asserted claim that he was subject to

1 the provisions of the Alien Enemy Act. On August 16, 1946, he
2 was released from the Provisions of the Alien Enemy Act and his
3 detention under authority of the Act thereupon ceased. Of these
4 facts the Commissioner, this Board and the Attorney General have
5 actual knowledge and take executive notice.

6 We submit that the finding and conclusion that the alien
7 cannot meet the residence requirements for suspension of deporta-
8 tion under Title 8 USCA, Sec. 155 (c) , is contrary to law, to
9 fact and to the evidence.

10 The seven (7) year period of residence required by Title 8
11 USCA, Sec. 155 (c) for suspension of deportation is satisfied by
12 the elapse of time from March 21, 1944, when applicant arrived
13 here or is, at least, partially satisfied by the elapse of time
14 from August 16, 1946, when he was released from internment and
15 from any claim of being subject to the provisions of the Alien
16 Enemy Act.

17 We submit that there is no evidence in the record that the
18 alien was brought to this country for any legitimate war connected
19 reason. We contend that the government is estopped to deny that
20 his entry was lawful and likewise is estopped to assert that his
21 presence in this country is unlawful. It is nonsense for the
22 government to assert that he did not present an unexpired passport
23 or other travel document at the time of entry and that he was not
24 in possession of a valid immigration visa. The secret orders of
25 the Peruvian government which authorized this cruel uprooting of
26 the appellant and similarly situated Peruvian-Japanese constitute
27 a blanket visa to the appellant and those other Peruvian-Japanese
28 who forcibly were brought to this country. The concealed orders
29 of the U.S. Government, under which he and they were banished
30 from Peru and transported to the U.S., constitute blanket
31 admission credentials.

32 We submit that the appellant was brought involuntarily to

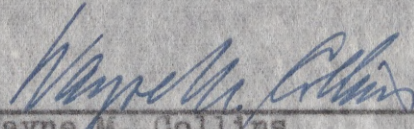
1 this country for political reasons only. Because he is, in fact,
2 an involuntary refugee from Peru, he is entitled to asylum in
3 this country.

4 Our ambassador to Peru and our State Department still are
5 trying to prevail upon the Peruvian authorities to re-admit the
6 appellant and similarly situated members of the Peruvian-Japanese
7 group here to Peru. So long as those negotiation are pending
8 we suggest that no order of deportation should issue against him.

9 For the foregoing reasons we urge that the finding of
10 deportability be set aside and that the alien's application for
11 suspension of deportation be granted.

12 June 6, 1952.

13 Respectfully submitted,

14 
15

16 Wayne M. Collins
17 1701 Mills Tower
18 San Francisco 4, Calif.
19 Garfield 1-1218

20 Attorney for Appellant.
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SMP/cc

THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

C
O
P
Y

Address Official Communications to

American Embassy
Lima, May 29, 1952

Mr. Wayne M. Collins, Attorney at Law,
Mills Tower, 220 Bush Street,
San Francisco 4, California

Dear Mr. Collins:

I wish to acknowledge receipt of your letter of May 19, 1952 referring once more to the return to Peru of a number of Peruvian-Japanese who were deported to the United States in 1943 and 1944.

Correspondence continues between this Embassy and the Peruvian Ministry of Foreign Affairs on the subject, but there has so far been no official change in the Peruvian position. When the matter was taken up orally with the Foreign Ministry this week, however, there was some indication that it intended to restudy the problem and to formulate a set of conditions under which certain Peruvian-Japanese would be enabled to obtain an entry permit. That indicates possible progress towards a solution of the problem.

Please be assured that the Embassy will continue to devote attention to this matter and will bear in mind the information contained in your letter.

Sincerely yours,

/s/ Harold H. Tittmann

U. S. DEPARTMENT OF JUSTICE
BOARD OF IMMIGRATION APPEALS
WASHINGTON

ADDRESS REPLY TO BOARD OF
IMMIGRATION APPEALS AND
REFER TO FILE NUMBER

A-5982000
Nishioka

July 7, 1953

Rec'd 7/10/53

Wayne M. Collins, Esquire
1701 Mills Tower
San Francisco 4, California

Reference is made to your interest in the above case.

For your information, there is enclosed herewith copy of the
decision and order of the Board of Immigration Appeals.

Sincerely yours,

Thos. G. Finucane

Thos. G. Finucane
Chairman

JUL 6 - 1953

A-5982000 - New York (0300-220188)

SHIGEYOKI NISHIOKA

IN DEPORTATION PROCEEDINGS

IN BEHALF OF RESPONDENT: Wayne M. Collins, Esquire
1701 Mills Tower
San Francisco 4, California

CHARGES:

Warrant: Act of 1924 - No immigration visa
Act of 1918 - No passport
Act of 1924 - Ineligible to citizenship

Lodged: None

APPLICATION: Suspension of deportation - seven years residence

DETENTION STATUS: Released on conditional parole

DISCUSSION AS TO DEPORTABILITY: Respondent is 37 years of age, a native and citizen of Japan, of the Japanese race. His only entry into the United States was at New Orleans on March 21, 1944, at which time he was brought to this country from Peru, with a group of other persons similarly situated, by the United States Army for internment during World War II.

Respondent is no longer deportable as a person ineligible to citizenship, and the third warrant charge is inapplicable. Prior to amendment by the Act of July 1, 1948 (Pub. Law 863, 80th Cong.) a person of the Japanese race was not eligible for suspension of deportation, because he was racially ineligible for naturalization in the United States. By that Act an alien who was ineligible for naturalization solely by reason of his race became eligible for suspension of deportation. Further, the Immigration and Nationality Act of 1952 (Pub. Law 414, 82d Cong.), Section 311, provides that the right of a person to become a naturalized citizen of the United States shall not be denied or abridged because of race. Respondent is deportable on the documentary grounds only.

DISCUSSION AS TO ELIGIBILITY FOR SUSPENSION OF DEPORTATION: Respondent has applied for the privilege of suspension of deportation on the ground

that he has been in the United States for seven years and was resident in the United States on July 1, 1948. He has been found technically eligible for suspension on this ground. He is single and has no close ties in the United States. He has a sister and cousin residing in Peru, and his parents and sisters reside in Japan. He migrated from Japan to Peru in 1935 and lived in that country until he was brought to the United States.

After he was permitted to leave the internment camps in which he was detained for more than two years, he worked at the Seabrook Farms Company, Bridgeton, New Jersey. At the time of his hearing in 1951 he testified that he was working as a watchmaker in New York City, earning \$25 a week, and that he had assets of \$2400 in cash in banks and other assets. The Hearing Officer found that respondent had been a person of good moral character for the past five years and that the record showed no adverse information.

Until recently it was the policy of this Department to deny suspension of deportation to aliens brought into the United States solely for reasons connected with the war. Many of these persons, after a period of internment, were permitted to depart from the detention centers, and proceedings against them as alien enemies were terminated after favorable findings were made by the Alien Enemy Division of the Department of Justice. They were permitted to obtain employment, and they lived and worked in the United States, subject to the usual restrictions on parolees. After the termination of World War II some of these persons desired to remain in the United States and applied for suspension of deportation. This relief was denied them as a matter of policy. However, in Matter of E., Int. Dec. 225 (BIA, May 31, 1950, A. G. May 6, 1952) the Acting Attorney General reviewed the policy and concluded that, in that case at least, deportation of the subject alien would bring about undue hardship. Accordingly, he reversed this Board and ordered the grant of suspension of Deportation to E. W., the alien involved in that proceeding. On the authority of that case it has become possible for this Board now to grant suspension of deportation to the Peruvian Japanese in the group of cases now before us.

We are informed that the Government of Peru has continued to decline to permit respondent and other persons similarly situated to reenter that country. They cannot remain in the United States permanently as illegally resident aliens. Having left Japan many years ago, none of them desires to return to that country. The most equitable solution to this problem within the power of this Government is to permit respondent to remain in the United States by granting him suspension of deportation.

It is our opinion that because respondent has been in the United States for seven years and was residing in this country on July 1, 1948, and because he has an otherwise good record, and because he is unable to return to the country from which he was brought for internment, respondent should be granted suspension of deportation.

ORDER: It is ordered that deportation of the alien be suspended under the provisions of Section 19(c)(2) of the Immigration Act of 1917, as amended.

IT IS FURTHER ORDERED that the order entered by the Assistant Commissioner on April 16, 1952 be and the same is hereby withdrawn.

IT IS FURTHER ORDERED that if during the session of the Congress at which this case is reported, or prior to the close of the session of the Congress next following the session at which this case is reported, the Congress passes a concurrent resolution stating in substance that it favors the suspension of such deportation, the proceedings be canceled upon the payment of the required fee and that the alien be charged to the quota of Japan.

Chairman

3-1637
Rev. 4/18/52

*Recd
7/13/53*

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Ellis Island
New York Harbor 4, New York
July 10, 1953

File # 0300-220188

Mr. Shigeyoki Nishioka
149 West 84th Street
New York City, N. Y.

Dear Sir ~~gentleman~~:

With further reference to your immigration status, you are informed that your deportation has been suspended and your case will be submitted to the Congress as required by Section 19 (c) of the Immigration Act of February 5, 1917, as amended.

If during the session of Congress at which your case is reported or prior to the close of the session of the Congress next following the session at which your case is reported, the Congress passes a concurrent resolution, stating in substance that it favors the suspension of your deportation, the proceedings will be cancelled upon the payment of the required fee. At that time appropriate information will be furnished you by this office.

In the event you have been reporting to this Service under parole agreement it will no longer be necessary for you to do so. In any event, however, you should keep this office informed of any changes in your address.

Very truly yours,

EDW. J. SHAUGHNESSY
District Director
New York District

ml

CC: Wayne M. Collins, Esquire
1701 Mills Tower
San Francisco 4, California

By:

Monte Moutal
Monte Moutal
Chief, Expulsion Section

July 13, 1953

Mr. Shigeyuki Nishioka
149 W. 84th Street
New York 24, New York

Dear Mr. Nishioka:

I wish to inform you that I have received a notice from the Board of Immigration Appeals dated July 7, 1953, and a copy of its decision of July 6, 1953, informing me that the appeal I took on your behalf has been sustained. This means that the unfavorable decision heretofore rendered against you has been set aside.

As a result of the favorable decision of the Board of Immigration Appeals, your case will be referred to Congress for its approval. If Congress approves your application for suspension of deportation, you will be granted permanent residence status in the United States. The Immigration Service in due course will notify you if Congress approves your application for suspension of deportation. If it refuses it, other action will have to be taken on your behalf.

Very truly yours,

(Mum)

July 19, 1953

S. Mishioka
149 W. 84th St
N. Y.

Mr. Wayne M. Collins
Mills Tower 220 Bush St
San Francisco 4
California

(File)

Dear Mr. Collins:

Thank you very much for
your letter & you did & doing for
my suspension of deportation

I receive a letter from
Immigration office about my
Immigration status. I hope
Congress approves my application
for suspension of deportation

Some time ago I heard
from Mr. Mukoyama about
payment for you. I know
I have to pay as much as
possible but I'm very regret
that I can't pay more than

Two hundred dollars (\$200.00)
because, I have to send
money to my old parents of
Japan & to niece who's
living alone in Paris (my
sister dead last year)...

such condition bring me
very heavy responsibility

I hope you understand
my economic situation &
you consent to my payment.

Here I send to you
one hundred dollars by
money order as first half
of \$200.00.

I hope you understand
my poor English letter &
you help me forever.

Thank you again
Sincerely yours
S. Mishioka

*File
Permanents - Japanese*

May 28, 1954

Mr. Shigeyuki Nishioka
149 West 84th Street
New York, New York

Dear Mr. Nishioka:

Congress has approved a suspension of deportation for you and has granted you permanent residence in the United States.

You must, therefore, pay to the U.S. Immigration Service a fee of \$18.00 to create a record of this. You should make that payment promptly as possible.

When you have paid that fee please notify me. After that has been paid you will be eligible to apply for naturalization, that is, to become a U.S. citizen.

When you have become a U.S. citizen it is likely that you will be able to visit Peru if you wish simply by obtaining a U.S. passport from an office of the U.S. State Department and a visa from the Peruvian Consulate.

Very truly yours,

3-1236
MAY 17 1954

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
70 Columbus Avenue
New York 23, N. Y.

May 25, 1954

Please refer to file
No. A5 982 000

Mr. Shigeyoki Nishioka
149 West 84th Street
New York, New York

Dear Sir or Madam:

With further reference to your immigration status, this office has been requested to secure from you a United States Postal Money Order in the sum of \$18.00. Please forward to this office, as soon as possible, the money order requested made payable to:

Treasurer of the United States, New York, New York.

Upon receipt of your remittance, a record of lawful entry for permanent residence may thereafter be created by this Service.

In order to expedite your case, please return this letter promptly to this office, together with the \$18.00 money order. If your address is not the same as shown above, please write your correct address at the bottom of this letter.

Very truly yours,

YOU MUST RETURN THIS LETTER

WITH YOUR REPLY TO THE

FINANCE SECTION.

EDW. J. SHAUGHNESSY
District Director
New York District

By: W. J. ZUCKER, Acting Chief,
Administrative Branch

P.S. In order that you may be issued an alien registration card, you should also submit two (2) photographs which must be 2x2 inches in size, the distance from the top of the head to point of chin to be approximately $1\frac{1}{4}$ inches; must not be pasted on a card or mounted in any way; must be on thin paper; have a light background; and clearly show a front view of the face without hat. Both photographs must be made from the same negative and must have been taken within the past 30 days; and must be signed by you on the margin and not on the face or clothing.

cc Wayne M. Collins, Esq.
1701 Mills Tower
San Francisco 4, California

Received

June 3. 1954

SHIGEKUKI

S. Mishioka

149 W 84th St

N.Y. 24 N.Y.

File
Pam

Mr. Wayne M. Collins
Wells Tower 220 Bush St.
San Francisco California

Dear Mr. Collins

Thank you very much for your letter
which you inform me Congress has approved
my suspension of deportation

I received from Immigration office
too, at May 26th. so I sent \$18.00 &
two photos at May 28th by mail.

I'm thanking very much for your
kindness that you concern to apply
for naturalization. But I'm not
thinking to become U.S. Citizen at
present time, because, my next
plan is visit my old parents at Japan
& after come back to U.S. I won't decide
to become U.S. Citizen. Of course
at that time ask a favour by all
means.

Thanks again.

Sincerely
S. Mishioka

P.S.

I'm very sorry that I couldn't
send \$100.00 which the balance
of \$200.00 that I had to pay

Here I send \$100.00 by U.S. money
order.