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TSUTSUI, TERUO JUAN

1950-134

78/177

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BEFORE THE BOARD OF IMMIGRATION APPEALS
BEFORE THE COMMISSIONER OF IMMIGRATION

In the Matter of

TERUO JUAN
TSUTSUI

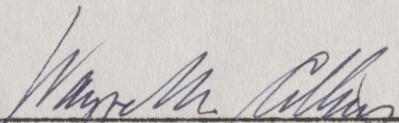
No. _____

APPLICATION TO REOPEN CAUSE FOR A SUSPENSION OF DEPORTATION

TERUO JUAN TSUTSUI hereby requests

that the deportation proceeding heretofore instituted against him be reopened for the purpose of enabling him to apply for a suspension 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 regulations thereunder and for the grant of said application for suspension of deportation.



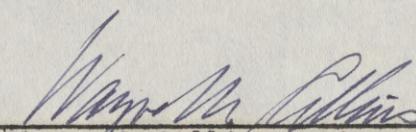
Wayne M. Collins
1701 Mills Tower
San Francisco 4, Calif.

Attorney for Applicant

AFFIDAVIT OF MERITS

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

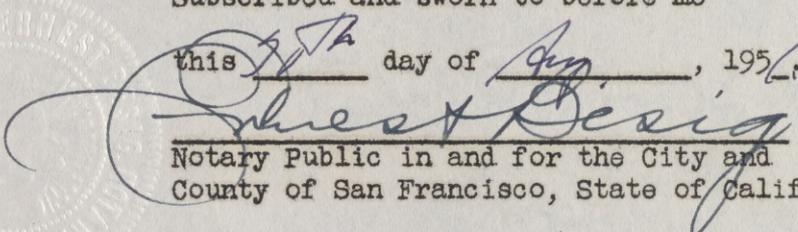
Wayne M. Collins of said City and County and State, being first duly sworn, deposes and says: that he is the attorney for _____ TERUO JUAN TSUTSUI _____, the applicant in the foregoing application names; that he is informed and believes and therefore alleges upon such information and belief that the 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
1701 Mills Tower
San Francisco 4, Calif.
Attorney for Applicant.

Subscribed and sworn to before me

this 17th day of Aug, 1952.



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

My Commission Expires
December 23, 1952

ORDER OF PAROLE

District No. A-5 993 249

Alien No. 5 993 249

In the case of Teruo Juan Tsutsui

a citizen of Japan who has been excluded from admission into the United States or arrested in deportation proceedings.

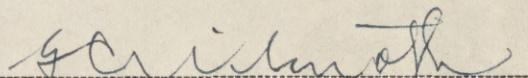
It appearing that said alien may be paroled under the supervision of the Immigration and Naturalization Service as provided in Operations Instruction 150.5 I, IT IS HEREBY ORDERED that such alien be paroled and permitted to be and remain at large during compliance with the following conditions:

- (a) That said subject shall report to the sponsor named on the reverse hereof as specified in paragraph (e);
- (b) That said subject shall report to the designated parole officer of this Service as specified in paragraph (f);
- (c) That said subject shall notify the designated parole officer of this Service of any change in residence or employment within an Immigration and Naturalization Service district within 48 hours after change is made;
- (d) That said subject shall not change his residence or employment from one Immigration and Naturalization Service district to any place outside thereof without prior knowledge of the designated parole officer of this Service;
- (e) _____

- (f) To report on the first day of each month, either in person or by mail, to The District Director, Immigration and Natrualization Service, P.O.Box 1650, El Paso, Texas.

This order shall be vacated and set aside upon the cancellation of the immigration proceedings.

DATE: September 25, 1950



(Signature of District Director)

16-44779-1

(OVER)

I, Teruo Juan Tsutsui, hereby acknowledge that I have read and understand the conditions of my parole as set forth in this order; I further understand that failure to comply with said conditions will constitute sufficient cause for the revocation of my parole; I hereby affirm and agree that I will abide by the said conditions; and I further agree to appear voluntarily when instructed to do so by an officer of the Immigration and Naturalization Service.

Teruo J. Tsutsui
(Parolee)
Teruo Juan Tsutsui,

% G. Nakamura, 258 E. 1st St.,
Los Angeles, California,
(Address)

Subscribed before me at El Paso, Texas

this 25th day of September, 1945

W. J. Waterson
W. J. Waterson
Deportation and Parole Officer
(Title)

I, _____, hereby acknowledge that I understand the conditions hereinabove set forth and hereby agree to furnish written reports to the designated Parole Officer concerning the subject alien's conduct and activities; and, further, that I will immediately report to the designated Parole Officer any failure on the part of the said subject alien to comply with the conditions of parole or any fact coming to my attention which would indicate that the subject alien intends to abscond or otherwise violate the conditions of parole.

(Sponsor)

(Address)

DATE:

SEPTEMBER 12,
~~August 30,~~ 1951

District Director
U. S. Immigration and
Naturalization Service
El Paso, Texas

Dear Sir:

In re: Teruo Juan Tsutsui
Fort Stanton, N. M.

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

Very truly yours,

SEPTEMBER 12,
~~August 30~~, 1951

The Commissioner of Immigration
Washington, D. C.

Dear Sir;

In re: Teruo Juan Tsutsui
Fort Stanton, N. M.

Enclosed find three original application forms to reopen cause for the purpose of enabling Teruo Juan Tsutsui, 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, El Paso, Texas, inasmuch as Mr. Tsutsui is presently at the U. S. Marine Hospital, Fort Stanton, New Mexico. A notice of appearance had been forwarded previously to the Immigration Office at El Paso, Texas.

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, El Paso, Texas

Peruvian

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
Salt Lake City 10, Utah
November 16, 1951

A5 993 249

Mr. Teruo Juan Tsutsui
2158 Harrison Avenue
Ogden, Utah

Dear Sir:

Reference is made to the pending deportation proceedings in your case and in that connection you are informed that since the Department has ordered reopening of the case to afford you an opportunity to apply for discretionary relief from deportation, you should submit the following documents to this office as soon as they are completed or obtained.

- (1) The enclosed Form I-256 should be completed in duplicate and returned to this office immediately, together with two photographs, $1\frac{1}{2}$ by 2 inches in size, with full front view, on thin paper, with light background, without head covering. You will note the Form I-256 has been partially completed from information on file in this office. In filing in the balance of the form, please do not fail to show each and every place of your residence, including the street address, if available, and the exact period you resided there, including the periods you were in internment camps, War Relocation Centers, or received hospitalization. It would also be helpful if you would give the names of one or two persons who knew you in each place of your residence.
- (2) If you are married, furnish two copies of the civil record of your marriage, one copy of which must be certified. If previously married, two copies of record showing how such marriages were dissolved (whether by death, divorce, annulment or otherwise.).
- (3) If your present spouse or dependent minor children were born in the United States, two copies of the civil record of their birth, one copy of which should be certified.
- (4) If your present spouse or dependent minor children were born outside of the United States, evidence of their United States citizenship, or if not citizens of the United States, information concerning the date, place and manner of their entry into the United States and the correct names under which they were admitted.
- (5) Affidavits, in duplicate, of two witnesses, preferably citizens of the United States, for each place of residence in the United States, showing the length of time they have known you in the United States, and whether or not they consider you to be a person of good moral

character. These affidavits may be prepared on the enclosed forms.

- (6) If you have been employed in the United States during the past five years, an affidavit or letter, in duplicate, from each of your employers, showing the length of time you were employed by him and whether or not he considers you to be a person of good moral character.

It is important that you give the foregoing your immediate attention, in order that arrangements may be made for conclusion of the proceedings in your case without unnecessary delay.

As soon as the documents mentioned have been submitted to this office, you will be informed of the date and place for you to appear for hearing.

FAILURE ON YOUR PART TO SUBMIT PROMPTLY THE REQUIRED DOCUMENTS MAY RESULT IN DENIAL OF THE SPECIAL PROCEDURE FOR SUSPENSION OF DEPORTATION AND THE INSTITUTION OF ADDITIONAL PROCEEDINGS AGAINST YOU.

Yours very truly,

GILBERT F. GOWER,
Officer in Charge.

Encl.

BWH/mc

Copy to Mr. Wayne Collins, Attorney
Mills Tower, 220 Bush Street
San Francisco 4, California

File

December 3, 1951

Mr. Teruo Juan Tsutsui
2158 Harrison Avenue *Blvd.*
Ogden, Utah

Dear Mr. Tsutsui:

On November 16, 1951, the Immigration Service at Salt Lake City forwarded to you a letter requesting you to complete forms I-256 and to submit passport types of photographs. It also requested of you certain other documents, including affidavits of witnesses and letters from your employers giving a history of your employment in this country.

As soon as you have forwarded those documents to the Immigration officer in charge at Salt Lake City, I would thank you to let me know that you have done so by letter.

It is necessary that you complete said documents so soon as possible in order that the hearing on your application for suspension of deportation may be held.

Very truly yours,

ADDRESS YOUR REPLY TO
DISTRICT DIRECTOR

U. S. DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

IN REPLYING PLEASE REFER TO THIS
FILE NUMBER

U. S. COURTHOUSE
P. O. BOX 1650
EL PASO, TEXAS
Sept. 17, 1951

1500/15127

Chavez / Adkins
OK

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

SUBJECT: Teruo Juan Tsutsui

Dear Sir:

Under date of September 12, 1951 you forwarded to this office copy of an application to reopen the case of the subject in order to enable him to file application for suspension of deportation.

You stated in your letter that the subject is presently in the U. S. Marine Hospital, Fort Stanton, New Mexico. Our records show that Tsutsui was released on parole by this office September 25, 1950 and that our files were forwarded to the District Director at Los Angeles, the subject at that time having taken up residence in that city. Under date of August 17, 1951 the Los Angeles office communicated with the Officer in Charge, Immigration and Naturalization Service, Salt Lake City, Utah, and stated that Tsutsui was at that time residing at 2158 Harrison Avenue, Ogden, Utah. Los Angeles file 1610-2097 was transferred to Salt Lake City. Inasmuch as this office has no pending file against Tsutsui, your communication with its enclosures is being transmitted to the Officer in Charge, Salt Lake City, Utah.

Very truly yours,

M. R. TOOLE
ACTING DISTRICT DIRECTOR

By:

Taylor C. Carpenter
Taylor C. Carpenter
District Adjudications Officer

CC - Officer in Charge, Salt Lake City, Utah,
with letter under reference and its enclosures.



at time of entry

It is the ⁴physically deficient⁴ under

Sec. 19 subd. (d) which makes suspended
under Sec 19 (a) inapplicable.

It is any cases holding that notes
are physically deficient.

Trenton

462

No. 2 - Widower - now 63 yrs of age

Born - Japan - city of Japan - 5/16/1891

Parents dead.

No. 5 - Mr. Eduardo Trenton of Family - Perman
city - now 34 yrs of age.

Born in Japan. (4 Siblings - No. 10)

Wanted to be sent back to Peru

No. 6 - Lived in Peru 37 yrs.

from 1906 - ~~to~~ 1943

No. 9 - In relatives in U.S.

Tutson is now 62 years old.

Lowndes is now 34 years old.

h. Birth in Japan.

Wants to go to Peru.

h.6 Lived in Peru 37 yrs.

h.9 Widower,

Residence in US

C
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Y

WAYNE M. COLLINS
Attorney at Law
1701 Mills Tower
220 Bush Street
San Francisco 4, California

C
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Y

April 29, 1953

Mr. Teruo Juan Tsutsui
2158 Harrison Ave.
Ogden, Utah

Dear Mr. Tsutsui:

The Special Hearing Officer of the Immigration Service has entered an unfavorable order against you because you had tuberculosis when you arrived in the United States.

It is necessary to take an appeal from that order and the Immigration Service requires a \$25 filing fee on such appeal. In consequence, I would thank you to forward said sum to me.

Further, please write me immediately and let me know the answers to the following questions:

1. Did you contract tuberculosis while you were in Peru?
2. When did you first contract it?
3. Did you have any medical care and attention for it in Peru?
4. What was the name and address of your Doctor who treated you for tuberculosis?
5. If you first contracted tuberculosis after you were brought to the United States please let me know when you first complained of that illness?
6. Who treated you for that condition?
7. What was the name of the Doctor in the U.S. who treated you?
8. Are you still receiving medical treatment?
9. If so, give me the name and address of your Doctor.
10. Please ask your Doctor to write me and give me a report on the diagnosis and progress of your case.

It is important that you get this information for me promptly.

Very truly yours,

(SIG) W. M. Collins

Encl (1)

COPY

COPY

Teruo Juan Tsutsui
2158 Harrison Ave.
Ogden, Utah
May 3, 1953

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

Dear Mr. Collins:

By your information I felt delication of my case so I write with my inperfect sentence please pardon me for my wrong writing.

Here I send \$25.00 in money order of the Post and 2 papers against my case and the answers to the questions indicated as following:

1. Yes, I contracted tuberculosis while I was in Peru.
2. Year 1937 but I do not remember the month.
3. Yes I had been attented and medical care for it about two month of my memory.
4. Dr. Jusa Oreano but I don't know his address. He was attending in the hospital patients of Fisco, Peru.
5. (a) At first in the Internee camp of Kenedy, Texas. I told to the Internee Doctor that I had tuberculosis while I was in Peru then I was held in the Internee hospital at August 21, 1944, but I had not medical care.
(b) From August 22, (1944) at April 21, 1946 in Santa Fe Internee hospital at New Mexico, and first complained was June 1945.
(c) From April 22, 1946 at June 29, 1946 in the immigration Building of San Pedro, California, but did not received medical care but only treated.
(d) From July 2, 1946, at October 10, 1947 in the Crystal City Internee Hospital of Texas and received medical treatment (Streptomycin) 2 weeks in the examination.
(e) From October 11, 1947, at September 22, 1950 in the U.S. Marine Hospital of Fort Stanton, N. Mexico, received treatment by the Hospital doctors.

Exhibit 2

6. Treated me by the Doctores of the Hospitals.
7. 5(A) German Internee phsician do not know his name.
 5(B) Internee physician S. Furugochi
 5(C) Do not rememered his name
 5(D) Internee camp hospital doctors
 Doctor Martin
 " Boyd
 5(E) Physician Dr. Hersley
 Surgeon Dr. Johnson
 " " "
8. No. I am not receiving medical treatment.
9. I received text of ex illness in last February by the doctor of The Ogden Clinic and Same Dr. certificated I have not illness (tuberculosis) that I will tell you since came out from the U.S. Marine Hospital of Fort Stanton, N.M. I am working continually in fineness.

I am thankfulness for your kind treatment of our case and I am praying can be this country by your help. Pardon at all

Yours truly,

(s) John T. Tsutsui

COPY

CERTIFICATE OF DISCHARGE

No. 5230

From U.S. Marine Hospital At Fort Stanton, New Mexico

THIS IS TO CERTIFY that Tsutsui, Teruo

was treated in the Hospital as a Hospital in-patient
from October 11, 1947 to September 22, 1950

Class of beneficiary Immigration Detainee Condition on discharge Arrested
Reason for discharge Released in custody of Immigration Service at
their request.

Certified service on last vessel _____ Name of vessel _____

Description
Nativity <u>Fukuokaken, Japan</u>
Date of birth <u>May 16, 1891</u>
Color <u>Yellow</u>
Complexion <u>Dark</u>
Height <u>65 inches</u>
Eyes <u>Black</u>
Hair <u>Black</u>

Remarks: Fit for duty.

/s/ H. W. Kopping, S. A. Surgeon. (R)
Medical Officer in Temporary Charge

Handwritten signature/initials

SURGERY
RULON F. HOWE, M. D.
I. BRUCE McQUARRIE, M. D.
C. D. VAN HOOK, M. D.

PEDIATRICS
RAY E. BURDETT, M. D.
EAR, NOSE AND THROAT
D. WILSON HALES, M. D.

THE OGDEN CLINIC

2955 HARRISON BLVD.
OGDEN, UTAH

OBSTETRICS AND GYNECOLOGY
E. CONRAD MONSON, M. D.
INTERNAL MEDICINE
W. P. DAINES, M. D.
M. PAUL SOUTHWICK, M. D.
FLOYD W. SEAGER, M. D.
DON DEE OLSEN, M. D.

June 2, 1953

Wayne M. Collins
Attorney At Law
220 Bush Street
San Francisco, California

Dear Mr. Collins:

Mr. Teruo Juan Tsutsui was hospitalized at the Thomas D. Dee Memorial Hospital for two weeks in February 1953 to determine the status of his tuberculosis. Many sputum studies were negative for the tuberculosis bacillus, and chest X-rays compared with ones we obtained from Ft. Stanton, New Mexico showed actual improvement over those X-rays of September 1950. A bronchoscopic examination with aspirations of secretions was negative for tuberculosis bacillus, both by smear and by culture.

The patient has continued to feel well, his weight has been constant, and there have been no signs of any activity of the tuberculosis. He is working daily, and I would state that he is still "fit for duty".

Sincerely yours,

M. Paul Southwick
M. Paul Southwick, M. D.

MPS/lt

C
O
P
Y

THE OGDEN CLINIC
2955 Harrison Blvd.
Ogden, Utah

C
O
P
Y

June 2, 1953

Wayne M. Collins
Attorney At Law
220 Bush Street
San Francisco, California

Dear Mr. Collins:

Mr. Teruo Juan Tsutsui was hospitalized at the Thomas D. Dee Memorial Hospital for two weeks in February 1953 to determine the status of his tuberculosis. Many sputum studies were negative for the tuberculosis bacillus, and chest X-rays compared with ones we obtained from Ft. Stanton, New Mexico showed actual improvement over those X-rays of September 1950. A bronchoscopic examination with aspirations of secretions was negative for tuberculosis bacillus, both by smear and by culture.

The patient has continued to feel well, his weight has been constant, and there have been no signs of any activity of the tuberculosis. He is working daily, and I would state that he is still "fit for duty".

Sincerely yours,

/s/ M. Paul Southwick, M. D.

MPS/lt

Light (4)

1 BEFORE THE UNITED STATES IMMIGRATION SERVICE

2
3 In the Matter of)

4 TERUO JUAN TSUTSUI,)

A-5-993-249

5 Respondent.)

Filed 6/4/53 57
Wine
Spd 5 per
by clk
Wine

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7
8 MOTIONS TO REOPEN AND FOR RECONSIDERATION

9
10 The respondent alien above-named moves and requests that
11 the above-entitled cause be reopened and that the decision of
12 the Special Inquiry Officer dated March 16, 1953, denying
13 respondent's application for suspension of deportation and order-
14 ing the respondent deported be set aside and that in the event
15 these motions be denied that the time within which respondent
16 may take and file exceptions to the findings of fact and
17 conclusion of law and decision therein and to any order denying
18 these motions, to appeal therefrom and to file a brief in
19 support thereof, be extended for a period of ten (10) business
20 days from receipt of notice of any order denying these motions.

21 The respondent also moves and requests that said cause be
22 reopened and reconsidered on the merits of respondent's applica-
23 tion for a suspension of deportation, made under the provisions
24 of Title 8 USCA, Sec. 155(c), and regulations implementing said
25 statute, on the grounds the findings of fact and conclusions
26 of law, contained in the aforesaid decision, to wit, Findings
27 of Fact Numbers (3), (4) and (5), and Conclusions of Law Numbers
28 (1), (2), and (4), and to the order for his deportation, are
29 erroneous and contrary to fact, evidence and law.

30 The respondent moves and requests that said cause be
31 reopened and reconsidered on the merits of (1) the question of
32 his deportability and (2) on the merits of his application for

1 a suspension of deportation, made under the provisions of Title
2 8 USCA, Sec. 155(c), and also under Section 244(a) of the
3 Immigration and Nationality Act of 1952, and regulations imple-
4 menting said statutes, for the following reasons:-

5 (a) The respondent, and all other members of the Peruvian
6 Japanese group brought to the United States by our Government,
7 were released from the provisions of the Alien Enemy Act intern-
8 ment on August 6, 1946, (not October, 1947, as stated in the
9 decision of March 16, 1953).

10 (b) The fact is and the evidence demonstrates that the
11 U.S. Government itself brought the respondent to this country
12 with full knowledge that he then was not in possession of an
13 unexpired immigration visa, or passport or document in the
14 nature thereof, and that the circumstances of his entry consti-
15 tuted a waiver by our Government of the possession and presenta-
16 tion by him of any such documents and an exemption from the
17 possession and presentation thereof by him. These are matters
18 of which the Special Inquiry Officer, as an agent of the
19 Commissioner of Immigration and of the Attorney General, has
20 and takes judicial or administrative knowledge and notice.

21 (c) While it is true that the respondent was afflicted with
22 active pulmonary tuberculosis at the time of his entry into the
23 United States we direct attention to the fact that he was
24 receiving medical care and treatment for that disease in Peru
25 which was interrupted for a period due to the fact that he was
26 seized in Peru and forcibly brought to the United States and
27 here was interned. Thereafter, he was accorded medical treatment
28 for that affliction at the Alien Internment Camp at Santa Fe,
29 New Mexico, and thereafter at a similar camp at Crystal City,
30 Texas, and thereafter at Fort Stanton, New Mexico, from whence,
31 on September 22, 1950, he was discharged as his disease had
32 been cleared up and he was found to be fit for duty by

4
1 H. W. Kopping, S.A., the Medical Officer in Temporary Charge
2 of the government hospital.

3 The respondent desires to introduce in evidence herein
4 the original "Certificate of Discharge" No. 5230 issued to him
5 at the U.S. Marine Hospital at Fort Stanton, New Mexico, on
6 September 22, 1950, as proof that his tubercular condition then
7 had been cleared up and that he was released from said Hospital
8 on said date as being "Fit for duty". He desires also to intro-
9 duce in evidence herein a statement of a competent medical
10 authority from Ogden, Utah, to the effect that he no longer
11 suffers from tuberculosis.

12 While we recognize that the fact the respondent was afflicted
13 with tuberculosis at the time of his entry was not considered
14 as evidence adverse to his application for a suspension of
15 deportation by the Special Inquiry Officer in his decision of
16 March 16, 1953, we point out that it was considered as evidence
17 that his entry was illegal and that he, therefore, was deportable
18 under Sections 3 and 19 of the Act of February 5, 1917. We direct
19 attention to the fact that the conclusion of law as to his
20 deportability on this issue was erroneous because our Government
21 had actual knowledge of his affliction at the time of his entry,
22 but, nevertheless, brought him here against his will and thereby
23 waived the question of his physical condition and exempted him
24 from being in good physical condition at the time and, therefore,
25 is estopped now to deny his good physical condition as at that
26 time and ever since. We move, therefore, that the issue of his
27 deportability on said grounds be reconsidered.

28 We move that the said order denying his application for
29 suspension of deportation and ordering him deported be set
30 aside and that his application for suspension of deportation
31 be reconsidered favorably to him for the following reasons:

32 (1) The fact of entry and proof of presence in the United

1 States on the part of respondent for a period in excess of seven
2 (7) years in inconsistent with the conclusion of nonresidence
3 within the meaning of the statute (8 USCA, Sec 155(c).) The
4 conclusion that respondent's period of residence here was not
5 of a type contemplated by the statute and hence was not residence
6 but nonresidence thereunder is erroneous. That conclusion was
7 drawn solely because of an arbitrary assumption that respondent's
8 entry and actual residence here arose from a form of internment
9 assumed, in the absence of evidence thereon being introduced or
10 even offered by the government at the hearing in this cause,
11 to have been justified as a wartime Western Hemispheric security
12 measure. A finding based upon a mere assumption that the respond-
13 ent actually constituted a real source of danger to such security
14 or to our security is illegal for being purely arbitrary. The
15 theory that a form of punishment, such as deportation, may be
16 inflicted in the absence of wrong by a person, and the theory
17 that one may be punished for the wrong inflicted upon him by the
18 government both violate the concept of due process of law and
19 are repugnant to the due process guaranty of the 5th Amendment.
20 The conclusion of deportability, based upon such an arbitrary
21 assumption, was not supported by any evidence whatever introduced
22 in this cause. Inasmuch, therefore, as the government did not
23 sustain its burden of proof on this issue the finding that
24 respondent was deportable was erroneous for being unsupported
25 by evidence and for being contrary to the evidence and to law.

26 Further, the legislative history of the relief statute,
27 Title 8 USCA, Sec. 155(c), evidences the fact that Congress, in
28 enacting that legislation, contemplated that members of the
29 Peruvian Japanese group forcibly brought here in 1943 and 1944
30 by the Government, contrary to their will and desire, would
31 benefit from the relief provided thereunder and that, in
32 consequence, their presence in this country for a period of

1 seven (7) years under such circumstances was deemed by Congress
2 to satisfy the residential requirement thereof and to render
3 them eligible thereunder for the relief thereby provided.

4 (2) We direct attention also to the fact that the Board of
5 Immigration Appeals repeatedly has decided that members of the
6 Peruvian-Japanese group brought to the United States in 1943
7 and 1944 at or about the same time and under similar circumstances
8 and conditions as the respondent are eligible for suspension
9 of deportation under the provisions of Section 19 (c) (2) of
10 the Immigration Act of 1917, as amended. The latest of which
11 we have knowledge is its decision of May 27, 1953, in the
12 case of Chika Yamasaki, A-5977644- Chicago (0900/56013).

13 See also like decisions of that Board of Feb. 24, 1953, in re;
14 Yaju Ganiko, A-5967239, L.A., 1610-2043; of Feb. 13, 1953,
15 in re: Carlos Magoichi Kato, et ux, al., A-6097897, A-6139156,
16 A-6097981-2.

17 Wherefore we move that the above-entitled cause be
18 reopened and reconsidered and that the decision and order of
19 March 16, 1953, of the Special Inquiry Officer be set aside,
20 and that the respondent's application for suspension of
21 deportation be granted.

22 Respectfully submitted,

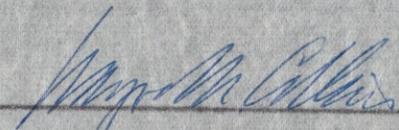
23
24
25 Wayne M. Collins
26 Mills Tower
27 San Francisco 4, Calif.
28 Garfield 1-1218

29 Attorney for Respondent Alien
30
31
32

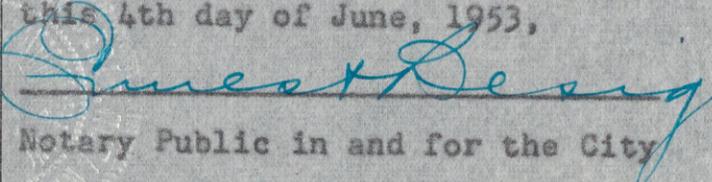
1 "Fit for duty". A true and correct copy thereof is annexed
2 hereto, made a part hereof and marked Exhibit (3).

3 I have received this 4th day of June, 1953, a letter from
4 the Ogden Clinic dated June 2, 1953, signed by M. Paul Southwick,
5 M.D., a letter stating in substance that tests conducted of the
6 alien patient for tuberculosis were negative and that the alien
7 is working daily and is "fit for duty". A true and correct
8 copy of said letter is attached hereto, made a part hereof and
9 is marked Exhibit (4).

10 The alien above-named desires to offer in evidence both
11 on the question of his deportability and on the question of
12 his right to a suspension of deportation in the above entitled
13 cause the originals of Exhibits (2), (3) and (4) hereinabove
14 mentioned and affiant desires to testify orally in said cause that
15 on April 29, 1953, he executed the original of said Exhibit (1)
16 and forwarded the same postpaid by mail to said alien.

17
18 
19 _____
20 Wayne M. Collins

21 Subscribed and sworn to before me
22 this 4th day of June, 1953,

23 
24 _____
25 Notary Public in and for the City
26 and County of San Francisco, State

26 of California.
27 My Commission Expires
28 December 23, 1954

OCT 9 - 1951

IN THE MATTER
OF

TERUO JUAN TSUTSUI or TERUO TSUTSUI

FILE NO: A-5993249

IN DEPORTATION PROCEEDINGS

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

On February 18, 1947, we ordered the subject alien deported to Peru. He is a native and citizen of Japan, last a resident of Peru, who entered the United States on March 21, 1944 at the port of New Orleans, Louisiana for internment. He is subject to deportation on the ground he was not in possession of proper documents at the time of entry and on the additional ground that he was afflicted with tuberculosis at the time of entry.

Counsel, on motion requested the proceedings be reopened to permit the alien to apply for suspension of deportation on the ground that he has resided in this country for seven years and was residing here on July 1, 1948. In an accompanying letter counsel states that the alien is presently in the United States Marine Hospital, Fort Stanton, New Mexico. From the record it appears that he has been hospitalized there for tuberculosis since October 11, 1947. The record indicates that the alien is a widower and has a son residing in Peru.

Upon full consideration of the record, we shall reopen the proceedings for the purpose of bringing the record up to date and for the purpose of permitting the alien to file application for such relief as may be appropriate. This is in no way an indication that we believe suspension of deportation is warranted in this case.

ORDER: It is ordered that the outstanding order and warrant of deportation be withdrawn.

IT IS FURTHER ORDERED that the proceedings be reopened for the purpose of bringing the record up to date and for the purpose of permitting the alien to apply for discretionary relief.

LW/erc

Chairman

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

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

A-5993249
Tsutsui

October 10, 1951

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

My dear Mr. Collins:

Reference is made to the motion submitted in the above case.

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

This decision will not become effective until notification has been transmitted by the Immigration and Naturalization Service to the field office which handled the case. Any further information concerning this matter may then be obtained from the field office.

Sincerely yours,

Thos. G. Finucane

Thos. G. Finucane
Chairman

Form I-290E
(Revised 3-15-53)

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
630 Sansome Street
San Francisco, California

Rec'd 6/16/53
W

REGISTERED MAIL
RRR

Please address reply to
Hearing Unit
and refer to this
File No. A-5 993 249 (MIS)

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

JUN 15 1953

Your _____
_____ has been denied for the following reasons:

See attached copy of decision.

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

If an appeal is desired, the Notice of Appeal on Form I-290A, copies of which are enclosed, shall be executed in duplicate and filed with this office, together with a fee of twenty-five dollars (\$25). Remittances should be made payable to the "Treasurer of the United States." If residing in the Virgin Islands, remittances should be drawn in favor of the "Commissioner of Finance of the Virgin Islands." If residing in Guam, remittances should be drawn in favor of the "Treasurer, Guam." Do not send coins or postage stamps. A postal, express, or bank money order is preferred. A brief or other written statement in support of your appeal may be submitted with the Notice of Appeal. You may request oral argument before the Board of Immigration Appeals.

Any question which you may have will be answered by the local immigration office nearest your residence, or at the address shown in the heading of this letter.

Sincerely yours,

L. E. Gowen

L. E. Gowen, Acting Chief,
Hearing Unit

For the District Director

Enclosures

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
San Francisco, California

File: A-5 993 249

In re: TERUO JUAN TSUTSUI

JUN 15 1953

IN DEPORTATION PROCEEDINGS

IN BEHALF OF RESPONDENT: Wayne M. Collins, Attorney at Law
1701 Mills Tower Building
San Francisco 4, California

APPLICATION: Motion to Reopen and Reconsider.

DISCUSSION: This record relates to a native and citizen of Japan in whose case the special inquiry officer ordered deportation and denied an application for suspension of deportation on March 16, 1953. Counsel for the respondent moves that the proceedings be reopened or that the decision be reconsidered for several reasons. Counsel's first allegation is that the special inquiry officer erred in finding that the respondent was released from internment in October 1947, and states that the Peruvian Japanese group were released from internment on August 6, 1946. The special inquiry officer's findings of fact number (5) was based on the respondent's own testimony to the effect that he was released from internment in October 1947. Since this date is not material to the outcome of the case, it is believed that it does not merit reopening or reconsideration of the case. Counsel's second allegation is that the respondent was brought to this country by the United States government with the full knowledge that he was not in possession of an unexpired visa or passport or document in the nature of a passport. The special inquiry officer recognized that such was the case in his decision. Counsel's next allegation is that the respondent was under treatment for tuberculosis prior to his entry into the United States and that such treatment was interrupted by his seizure and internment in the United States, and that he has since received treatment and is now discharged from medical treatment, as the tubercular condition has cleared up. Since counsel concedes that the respondent was treated for tuberculosis both prior to and subsequent to the date of entry, it is clear that the charge that he had tuberculosis at the time of entry was properly sustained. The fact that he has subsequently been discharged from treatment has no bearing on the condition as it existed at the time of his entry. Therefore, the special inquiry officer finds no basis for reopening or reconsideration of the findings of fact and conclusions of law in the case.

Counsel also seeks reconsideration of the denial of the application for suspension of deportation. He alleges that a conclusion was reached by the special inquiry officer that the respondent did not have the seven years' residence required to be eligible for such relief. This allegation is not correct, since the special inquiry officer stated in his order, "Therefore, the respondent meets the requirements of residence and character". Counsel states that "a finding based on a mere

assumption that the respondent constituted a real source of danger to the security of the country is illegal for being purely arbitrary". No such finding was made in this case. Counsel states that it was the intent of Congress that the Peruvian Japanese Group benefit from the relief provided by 8 USC A 155(c), and that seven years residence by such persons was deemed by Congress to satisfy the residence requirement. The special inquiry officer, having conceded that the respondent has the requisite seven years residence, there is no basis for reopening or reconsideration of that issue.

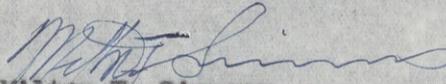
In conclusion, counsel points out that the Board of Immigration Appeals has granted suspension to a number of aliens in the Peruvian Japanese Group and cites several decisions relating to such persons. It is well established that the aliens in the Peruvian Japanese Group would be eligible for suspension of deportation on the basis of their seven years residence; however, it is equally well established that the mere fact that an alien meets the basic requirements for suspension of deportation does not mean that the privilege must be granted to him. The granting of suspension of deportation is discretionary and may be granted or denied by the Attorney General or those to whom he has delegated the authority depending on the merits of the individual case.

In the matter of W. - - -, A-5 908 014 (Interim Decision No. 225), the case of a native of Germany, who was brought to the United States from South America for internment, was considered. In that case, the respondent was ordered deported from the United States and suspension of deportation was denied by the Board of Immigration Appeals. A motion to reconsider was also denied. The case was referred to the Attorney General, who granted suspension of deportation on the grounds that the deportation of the alien would bring about undue hardship. It is the opinion of the special inquiry officer that this decision does not require that all aliens brought to the United States for internment be granted suspension of deportation, but that each case be considered on its merits and that suspension of deportation be granted where the facts in the individual case warrant such relief.

In the present case, the respondent has no close relatives in the United States and no one in this country dependent upon him for support. He has relatives in both Japan and Peru. Under the circumstances, the special inquiry officer does not believe that the facts ~~arrant~~ ^{warrant} any change in the decision entered on March 16, 1953, and the motion is denied.

At the request of counsel, the time in which to file an appeal from the order of the special inquiry officer will be extended for a period of ten (10) business days beyond the date of receipt of this decision.

ORDER: It is ordered that the motion to reopen and reconsider be denied.


Milton T. Simmons
Special Inquiry Officer

13-463-

2-2-51

UNITED STATES OF AMERICA
DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

In the matter of:

TERUO JUAN TSUTSUI

Respondent

File No. A5 993 249

Reopened Hearing held at **Salt Lake City, Utah**
on **March 16, 1953**

PRESENT:

Special Inquiry

~~Hearing~~ Officer: **Milton T. Simmons**

Examining Officer: **None**

Stenographer: **Virginia Stevens**

Interpreter: **Mrs. E. K. Fujimoto**

Respondent's Representative: **Presence waived**

TRANSCRIPT OF TESTIMONY

I N D E X

<u>Exhibit</u>		<u>Page Number</u>
3	Form I-256, Application for Suspension of Deportation	10
4	Letter from Los Angeles Athletic Club	10
5	Letter from Harry Sito	10
6	Affidavit of Kamakichi Sasaki	10
7	Affidavit of Gongoro Nakamura	10
8	Letter from Flintridge Sacred Heart Academy	10
9	Affidavit of Jimmie Numa	10
10	Letter from Eccles Hotel Company	10
11	Affidavit of Jisaku Sakurada	10
12	Affidavit of Dr. Munagi Yoshitaka	10
13	Report of Investigator Hales	10
14	Report of FBI	10

Lodged Charges

None

Witnesses

None

PROCEEDINGS

By Special Inquiry Officer:

Q. This is a reopened expulsion proceeding in the case of TERUO JUAN TSUTSUI, pursuant to the Order of the Board of Immigration Appeals dated October 9, 1951. Are you Teruo Juan Tsutsui?

A. Yes. They call me John.

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

A. Yes.

NOTE: It has been ascertained that the respondent does not speak and understand the English language but does speak and understand the Japanese language. Mrs. E. K. Fujimoto has been retained to act as interpreter during these proceedings.

Q. The hearing in your case was ordered reopened on the motion of Attorney Wayne M. Collins, in order that you might apply for suspension of deportation. Do you desire to proceed at this time without Mr. Collins being present?

A. Yes.

Q. You are advised that you will have a reasonable opportunity to examine the evidence against you, to present evidence in your own behalf, and to cross-examine witnesses presented by the Government. Do you understand?

A. Yes.

Q. What is your present address?

A. 2158 Harrison Boulevard, Ogden, Utah.

Q. How long have you resided at that address?

A. Ever since July, 1951.

Q. Where did you reside before that?

A. In California, In Los Angeles and Pasadena.

Q. Are you married or single?

A. I am a widower.

Q. Do you have any relatives in the United States?

A. No.

Q. Your record reflects that you came to the United States in 1944 for internment, from Peru. Is that correct?

A. Yes.

Q. How long were you interned following your arrival in the United States?
A. Until October, 1947.

Q. Do you have any relatives in Peru?
A. A son.

Q. What is the name of that son, and where is he located?
A. Edward Tsutsui, 175 Calle Ayacucho, Pisco, Peru.

Q. Do you have any relatives in Japan?
A. A brother and sister.

Q. You are advised that I will now place in the record the following documents which have been submitted by you:

Exhibit 3, Application for Suspension of Deportation, Form L-256, executed June 5, 1952;

Exhibit 4, Letter from the Los Angeles Athletic Club dated June 3, 1952;

Exhibit 5, Employment letter from Harry Site dated June 22, 1952;

Exhibit 6, Affidavit of Kamakichi Sasaki, dated June 9, 1952;

Exhibit 7, Affidavit of Gongoro Nakamura, executed June 15, 1952;

Exhibit 8, Employment letter from Flintridge Sacred Heart Academy, Pasadena, California;

Exhibit 9, Affidavit of Jimmie Numa executed June 16, 1952;

Exhibit 10, Employment letter from the Eccles Hotel Company, dated January 16, 1952;

Exhibit 11, Affidavit of Jisaku Sakurada, executed June 18, 1952;

Exhibit 12, Affidavit of Dr. Munagi Yoshitaka, executed June 18, 1952;

Exhibit 13, Report of Investigator B. W. Hales, dated February 27, 1953.

The report of Investigator Hales will now be read to you by the interpreter in order that you may know the contents thereof.

(Report read to respondent by interpreter).

You are advised that it will be necessary to conduct a similar investigation in Los Angeles, California, and when that investigation is completed the report will be placed in the record as the next exhibit in order, provided nothing adverse is contained therein. Do you have any objection to such procedure?

A. No.

Q. I also show you a report from the Federal Bureau of Investigation indicating that they have no criminal record relating to you. This report will be placed in the record as Exhibit 14. Do you understand?

A. Yes.

Q. In the event that suspension of deportation is denied in your case, would you be willing and financially able to depart from the United States at your own expense?

A. As of now I cannot afford to. With the little salary I am getting I just about make a living.

Q. If you were given an opportunity to depart voluntarily from the United States how soon do you believe you would be financially able to depart from the United States?

A. I would not be allowed to go back to Peru. It would take me about a year in order to save enough to go to Japan.

Q. If you were ordered deported from the United States what country would you prefer to be deported to?

A. Japan is the only country.

Q. You are advised that I will now read into the record my decision in your case.

NOTE: At this point in the proceedings, in the presence of the alien, the Special Inquiry Officer delivered an oral statement of his decision in the case. This has been transcribed separately and is attached hereto.

Q. Do you understand the decision that has just been read into the record?

A. Yes.

Q. Do you wish to have Mr. Collins served with a copy of this decision in order that he may decide whether or not an appeal is to be submitted in your case?

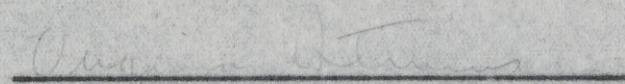
A. Please do so.

Q. You are advised that Mr. Collins will be served with a signed copy of my decision and will be given a period of not to exceed ten business days within which to file an appeal, which may be accompanied by written argument or brief. Do you understand?

A. Yes.

The hearing is closed.

I certify that the foregoing is a true and correct transcript of stenographic notes taken at this hearing.


Stenographer

I hereby certify that to the best of my knowledge and belief the foregoing is a true and correct report of everything that was stated during the course of the hearing, including oaths administered and rulings on objections, but excluding statements made off the record.

Special Inquiry Officer

HEARING

In re: TERUO JUAN TSUTSUI, 54 years old, male sex.

Date: April 8, 1946
Place: Santa Fe Internment Camp, Santa Fe, New Mexico
Presiding Inspector: Jesse G. Frye
Secretary: Charlotte L. Foster
Official Interpreter: Frank Sasaki

BY PRESIDING INSPECTOR TO THE ALIEN:

Q. What languages are you able to speak and understand?
A. Japanese and Spanish.

NOTE: Hearing conducted in the Japanese language.

Q. What is your full and correct name?
A. Teruo Juan Tsutsui.

Q. Are you the same Teruo Juan Tsutsui on whom decoded copy of telegraphic Warrant of Arrest, dated March 31, 1946, was served on April 1, 1946 at the Santa Fe Internment Camp, Santa Fe, New Mexico?
A. Yes.

Q. This warrant charges that you appear to be subject to deportation on the following grounds: that you are in the United States in violation of the Immigration Act of May 26, 1924, in that, at the time of entry, you were an Immigrant not in possession of a valid immigration visa and not exempted from the presentation thereof by said Act or regulations made thereunder; the Passport Act approved May 22, 1918, as amended, and the Act of February 5, 1917, in that, at the time of entry, you did not present an unexpired passport or official document in the nature of a passport issued by the government of the country to which you owe allegiance or other travel document showing your origin and identity, as required by Executive Order in effect at time of entry; and the Immigration Act of May 26, 1924, as amended, in that, you are an alien ineligible to citizenship and were not entitled to enter the United States under an exception of paragraph (c), Section 13 thereof.

Do you understand the nature of the charges against you?

A. Yes.

COPY

Q. Have you secured counsel to represent you in these proceedings?

A. Yes, Mr. Tietz is my attorney.

Q. You are advised that Mr. J. B. Tietz has notified this office that he waives his presence at your hearing but desires that he be furnished a copy of the proceedings. Do you understand?

A. Yes.

Q. Do you solemnly swear that all the statements you are about to make in this proceeding will be the truth, the whole truth, and nothing by the truth, so help you God?

A. Yes.

Q. You are informed that if you wilfully and knowingly give false testimony at this proceeding you may be prosecuted for Perjury, the penalty for which is imprisonment of not more than five years or a fine of \$2000, or both such fine and imprisonment. Do you understand?

A. Yes.

Q. There is now introduced in evidence, made a part of this record, and marked Government Exhibit 1, copy of Warrant of Arrest No. 1500/15127 dated March 31, 1946. Do you understand?

A. Yes.

Q. Have you ever used or been known by any name other than Teruo Juan Tsutsui?

A. In Japan I used the name Teruo Tsutsui.

Q. What is your age and conjugal status?

A. I am 54 years old, widower.

Q. What is your occupation and home address?

A. I am a restaurant operator and I lived at Calle Jazmin No. 110, Pisca, Peru.

Q. When and where were you born, of what country are you a citizen and of what race?

A. I was born May 16, 1891 in Minaminyoshitomi-mura, Chikujo-gun, Fukuoka-ken, Japan. I am a citizen of Japan and of the Japanese race.

COPY

- Q. State the names of your parents, their birthplaces, citizenship and present whereabouts?
- A. Father, Yoshimatsu Tsutsui, and mother Yasuko Hisatsuno, were both born the same place I was; were citizens of Japan until their deaths; and they are buried there.
- Q. Have you ever acquired citizenship in any country other than Japan either through your parents or by an affirmative act of your own?
- A. No.
- Q. When and where did you last enter the United States?
- A. I last entered the United States on March 21, 1944 at New Orleans, Louisiana.
- Q. For what purpose did you last enter the United States, what was your destination and how long did you intend to remain?
- A. I was brought here under arrest by some American soldiers. I did not know where I was going or how long I would stay.
- Q. Were you inspected and admitted by a United States Immigrant Inspector at the time of your last entry?
- A. No.
- Q. Have you ever been inspected and admitted to the United States for any purpose?
- A. No.
- Q. Have you ever lived in the United States?
- A. No.
- Q. Were you in possession of a valid immigration visa at the time of your last entry, as required by the Immigration Act of 1924?
- A. No.

COPY

- Q. Have you ever been arrested in the United States or in any other country?
A. I was arrested on January 6, 1944 by some Peruvian detectives in Pisca, Peru. They turned me to some American soldiers who brought me to the United States. I have been in prison all the time that I have been in the United States.

Q. Were you able to read in any language or dialect at the time of your last entry into the United States?

A. I can read Japanese.

NOTE: Alien tested with Japanese reading matter and was found able to read.

Q. Have you ever been excluded, deported or allowed to depart voluntarily from the United States in lieu of deportation by the Immigration authorities?

A. No.

Q. Did you present a passport or other official document in the nature of a passport showing your origin and identity, at the time of your last entry?

A. No.

Q. There will now be introduced in evidence, made a part of this record, and marked Government Exhibit 2, Medical Certificate dated April 8, 1946, signed by the Public Health Surgeon at the Santa Fe Internment Camp, Santa Fe, New Mexico, certifying that you are afflicted with Pulmonary Tuberculosis, which in his opinion, has existed for at least three years.

NOTE: Exhibit read and translated to the alien.

Do you understand?

A. Yes, sir.

Q. Do you have any comment to make concerning this exhibit?

A. No, I knew that I had tuberculosis.

Q. You are advised that there will be urged as further grounds for your deportation the addition charge:

That at the time of your entry you were afflicted with Tuberculosis.

Do you understand?

A. Yes.

Q. Do you have any comment to make concerning this additional charge?

A. No.

Q. When did you leave Japan?

A. September 15, 1909.

Q. When did you enter Peru and how were you admitted?

A. October 23, 1909 with Japanese passport to live in Peru.

Q. Have you ever made application for repatriation to Japan?

A. No.

Q. Do you have any property in Peru?

A. No.

Q. Do you have any property in Japan?

A. No.

Q. Do you have any children?

A. Yes, I have one son, Eduardo Tsutsui y Sanchez, a citizen of Peru, having been born in Peru about 26 years ago. He is living at Calle Jazmin No. 110, Pisca, Peru.

Q. Are any of the members of your immediate family citizens of or residents in the United States?

A. No.

Q. What is the name and address of your nearest relative in Japan?

A. Brother, Satoru Tsutsui, living in the same place that I was born.

Q. Have you registered under the provisions of the Alien registration Act of 1940?

A. Yes, I registered at Kenedy, Texas.

NOTE: Subject previously assigned A. R. No. 5993249.

Q. Have you registered as an enemy alien?

A. Yes, at Kenedy, Texas.

NOTE: Subject registered at Alien Detention Station, Kenedy, Texas on July 12, 1944.

Q. Have you any further evidence to present or any statement you wish to make concerning the evidence in your case?

A. I am ill and have no one to look after me in Japan, so I would like to be sent back to Peru so that my son could take care of me.

COPY

Q. You are advised that this Service has been notified that Peru will not admit Japanese who are not citizens of Peru. Do you understand?

A. Yes.

Q. In the event you are ordered deported to Japan, what will be your final destination in that country?

A. I have no place to which to go in Japan. I have been living in Peru for 37 years.

Q. Have you any reason to offer why deportation in your case should not be effected?

A. Peru has no reason to send me back to Japan through the United States. The United States brought me here so it is their responsibility to see that I am sent back to Peru.

Q. You are advised that your attorney will be furnished with a copy of the proposed findings of facts, conclusions of law and order as soon as completed, and he will be allowed 48 hours in which to file exceptions thereto. Do you understand?

A. Yes.

Q. You are now advised that under the Act of March 4, 1929, as amended, you will, if ordered deported, and thereafter enter or attempt to enter the United States, 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 \$1000, or both such fine and imprisonment, unless you, following your departure from the United States, in pursuance of an order of deportation, receive permission from the Attorney General to apply for admission after one year from the date of such departure. Do you understand?

A. Yes.

PERSONAL DESCRIPTION: Height, 5'6"; weight, 140 lbs.; black eyes; black hair.

MEDICAL CERTIFICATE: Exhibit.

I certify the foregoing to be a true and complete transcript of the record of testimony in the above case, as dictated to me by Immigrant Inspector Jesse G. Frye.

Charlotte L. Foster
Stenographer

COPY

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Salt Lake City, Utah

March 16, 1953

File: A5 993 249

In Re: TERUO JUAN TSUTSUI

IN DEPORTATION PROCEEDINGS

IN BEHALF OF RESPONDENT: Wayne M. Collins

CHARGES:

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

Lodged: Act of 1917, Afflicted with tuberculosis

DETENTION STATUS: Released on Conditional Parole

WARRANT OF ARREST SERVED: April 1, 1946

DISCUSSION:

The respondent is a native and citizen of Japan who last entered the United States March 21, 1944, at New Orleans, Louisiana, at which time he was brought to this country from Peru for internment. He testified that, at the time of entry, he did not know where he was going or how long he would stay. He testified that he was interned until October, 1947. The respondent has been at liberty since that time and has not departed from the United States. He testified that, at the time of entry, he did not have in his possession an unexpired immigration visa and did not present a passport or other document in the nature of a passport. It has been established that the respondent was afflicted with tuberculosis at the time of entry. Therefore, all of the charges are sustained except the third warrant charge, relating to ineligibility to citizenship, that charge being no longer applicable due to the Immigration and Nationality Act of 1952.

Respondent was previously ordered deported from the United States but the record was ordered reopened on motion of counsel, to permit the respondent to apply for suspension of deportation. Considerable evidence has been submitted by the respondent to establish that he has been a person of good moral character for the past five years and that he has resided in the United States for more than seven years and was in this country on July 1, 1948. Therefore, the respondent meets the requirements of residence and character. However, a portion of this residence was acquired while interned after his entry into the United States. The respondent barely meets the minimum requirements for suspension of deportation. He has no close relatives in the United States and there is no one in this country dependent upon him for support.

In view of all the circumstances, it is the opinion of the Special Inquiry Officer that suspension of deportation is not warranted in this case and the application will be denied. The respondent has stated that if he were granted the privilege of voluntary departure, it would be necessary for him to return to Japan because he cannot go to Peru, and that he is financially unable to depart at this time. He stated further that it would probably take him about a year to earn funds with which to effect departure at his own expense. Under the circumstances, a grant of voluntary departure would serve no useful purpose, since the matter could not be deferred for that length of time under the District Director's policy in this type of case. The respondent has stated that if deported he would prefer deportation to Japan, because he cannot be admitted to Peru.

FINDINGS OF FACT:

Upon the basis of all the evidence presented, it is found:

- (1) That the respondent is an alien, a native and citizen of Japan;
- (2) That the respondent last entered the United States March 21, 1944, at New Orleans, Louisiana, as an internee;
- (3) That, at the time of his entry, the respondent did not have in his possession an unexpired immigration visa;
- (4) That, at the time of his entry, the respondent did not present a passport or other document in the nature of a passport;
- (5) That the respondent was released from internment in October, 1947, and has remained in the United States since that time;
- (6) That the respondent was afflicted with active pulmonary tuberculosis at the time of his last entry.

CONCLUSIONS OF LAW:

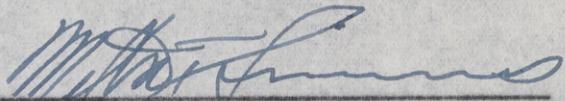
Upon the basis of the foregoing findings of fact, it is concluded:

- (1) That, under Sections 13 and 14 of the Immigration Act of May 26, 1924, the respondent is subject to deportation on the ground that, at the time of entry, he was an immigrant not in possession of a valid immigration visa and not exempted from the presentation thereof by said Act or regulations made thereunder;
- (2) That, under Section 19 of the Act of February 5, 1917, the respondent is subject to deportation on the ground that he entered the United States in violation of the Passport Act approved May 22, 1918, as amended, in that, at the time of entry, he did not present an unexpired passport or official document in the nature of a passport issued by the Government of the country to which he owes allegiance or other travel document showing his origin and identity, as required by Executive Order in effect at time of entry.

- (3) That, under Sections 13 and 14 of the Immigration Act of May 26, 1924, as amended, the respondent is not subject to deportation on the ground that he is an alien ineligible to citizenship and was not entitled to enter the United States under any exception of Paragraph C, Section 13 thereof;
- (4) That, under Sections 3 and 19 of the Act of February 5, 1917, the respondent is subject to deportation on the ground that, at the time of entry, he was afflicted with tuberculosis.

ORDER:

IT IS ORDERED that the alien be deported from the United States in the manner provided by law, on the charges contained in the warrant of arrest and the lodged charge, except on the following charge: The Immigration Act of May 26, 1924, as amended, in that he is an alien ineligible to citizenship and was not entitled to enter the United States under any exception of Paragraph C, Section 13 thereof.


Special Inquiry Officer

2158 Harrison Blvd.
Ogden, Utah
March 20, 1953

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

Re: Deportation

Dear Mr. Collins:

Please be advised that on March 16, 1953 a hearing for my deportation was held in Salt Lake City, Utah with representatives of the San Francisco Office of the Immigration and Naturalization Service.

I have been informed that I am still subject to deportation because my period of residence in the United States is not yet seven (7) years.

As I desire to remain a resident of the United States, I trust that I may ask for your assistance should your services be required in this connection in the future.

Yours truly,

Teruo J. Tsutsui
Teruo Juan Tsutsui

Form I-290A
UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
(1-15-53)

NOTICE OF APPEAL TO THE BOARD OF IMMIGRATION APPEALS

DEPARTMENT OF JUSTICE, WASHINGTON, D. C.

IN THE MATTER
OF
TERUO JUAN TSUTSUI

FILE NO. A-5 993 249

DATE:

I hereby appeal from the decision in the above entitled case dated
March 16, 1953 and received by me on April 24, 1953
(date)

If an appeal is taken in a DEPORTATION PROCEEDING, it is not perfected unless the form on the reverse of this notice is executed.

I am filing herewith (or will file within the time set by the appropriate local immigration officer) written brief or other statement for consideration by the Board of Immigration Appeals.

I do not desire oral argument before the Board of Immigration Appeals in Washington, D. C.
(do) (do not)

Oral argument in any one case should not extend beyond fifteen (15) minutes, unless arrangements are made in advance of the hearing for additional time.

W. J. Collins
(Signature of appellant or representative)

1701 Mills Tower
(Address)

San Francisco 4, Calif

NOTE: If the appellant is in detention or has been denied admission to the United States at the Canadian or Mexican border, he will not be released from detention nor permitted to enter the country to present oral argument to the Board. In such cases, if representation is desired, the appellant should arrange for someone to present his case to the Board of Immigration Appeals. Unless such arrangement is made at the time the appeal is taken, where representation is desired, the Board of Immigration Appeals will not calendar the case for argument.

TO BE EXECUTED IN ALL APPEALS IN DEPORTATION PROCEEDINGS

If deportability is contested, specify by number findings of fact and conclusions of law to which exception is taken

Findings of Fact _____

Conclusions of Law _____

If appeal is based (in whole or in part) on the denial of an application for discretionary relief, indicate briefly the specific relief requested:

State briefly the reasons for this appeal:

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
San Francisco 11, California

Please address reply to
HEARING UNIT
and refer to this
File No. A-5 993 249

REGISTERED MAIL
RETURN RECEIPT REQUESTED

APR 23 1953

R. 4/23/53

Wayne M. Collins
Attorney at Law
1701 Mills Tower
220 Bush Street
San Francisco 4, California

Dear Sir:

The attached is a copy of the decision and order of _____
Special Inquiry Officer Milton T. Simmons in the case of
TERUO JUAN TSUTSUI.

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 TEN days (not including Sundays and holidays) after receipt of this notice.

If an appeal is desired, the Notice of Appeal on Form I-290A, copies of which are enclosed, should be executed in duplicate and filed with this office. A brief or other written statement in support of your appeal may be submitted with the Notice of Appeal.

You may also request oral argument before the Board of Immigration Appeals. However, an alien who is in detention or who has been denied admission at the Canadian or Mexican border will not be released from detention nor permitted to enter the country to present oral argument to the Board. Such an alien desiring representation must arrange to have someone appear on his behalf before the Board. Unless the name and address of the representative is forwarded with the Notice of Appeal, the Board of Immigration Appeals will not calendar the case for argument.

Any question which you may have will be answered by the local immigration office nearest your residence or at the address shown in the heading of this letter.

Sincerely yours,

Bruce G. Barber
District Director

By:

Milton T. Simmons
Milton T. Simmons, Acting Chief
Hearing Officer

Enclosures

April 24, 1953

U.S. Immigration Service
630 Sansome Street
San Francisco, Calif.

Attention: Milton T. Simmons, Esq.,

Gentlemen:

In re: Teruo Juan Tsutsui, No. A-5 993 249

This morning I received notice of your decision in the above-cause dated March 16, 1953.

Inasmuch as the alien desires to appeal from the adverse order I request that you supply me with a copy of the transcript of the hearings given him so that I can file exceptions, appeal and prepare a supporting brief thereon.

In consequence, I would be grateful were you to extend my time for filing the appeal notice and supporting briefs until 10 days after receiving the said transcript of hearings.

Very truly yours,

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
SAN FRANCISCO, CALIFORNIA

IN REPLYING PLEASE REFER TO THIS
FILE NUMBER

A5 993 249-T HU MTS

April 27, 1953

*Recd
4/29/53*

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

re: TERUO JUAN TSUTSUI

Dear Sir:

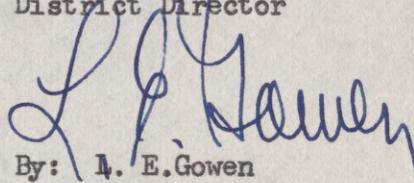
Reference is made to your letter of April 24, 1953.

There is enclosed herewith copies of transcript of testimony of proceedings held on April 8, 1946, and March 16, 1953. Please execute the enclosed receipt form and return to this office promptly.

The time within which an appeal must be filed will expire ten (10) business days after the receipt of this transcript.

Very truly yours,

Bruce G. Barber
District Director



By: L. E. Gowen
Acting Chief
Hearing Unit

Enclosure

RECEIPT OF REPRESENTATIVE FOR COPY OF RECORD IN DEPORTATION PROCEEDINGS

Place: San Francisco, California

Date: April 1953

Received of the United States Immigration and Naturalization Service
held April 8, 1946 and March 16, 1953
transcript of testimony/in the case of TERUO JUAN TSUTSUI

No. A5 993 249-T

I hereby agree to abide by the conditions of 8 CFR 95.6, the text of
which is set forth below:

95.6 Appearances; use of record.:

(a) An appearance shall be filed in writing on Form G-28 by attorneys or representatives appearing in each individual case. When an appropriate appearance has been filed in a case, substitution of attorneys or representatives may be permitted upon the written withdrawal of the attorneys or representatives of record or upon notice by the party to the case of his designation of new attorneys or representatives. If any attorney or representative of record authorizes another attorney or representative to act for him as an associate in a case, the latter will be heard if satisfactory evidence of his authorization is presented and if he has been admitted to practice under this Part.

(b) During the time a case is pending, the attorney or representative of record, or his associate, shall be permitted to review the record and, upon request, be lent a copy of the testimony adduced. The attorney or representative shall give his receipt for such copy and pledge that no copy thereof will be made, that he will retain it in his possession and under his control, and that it will be surrendered upon final disposition of the case. If the attorney or representative desires to purchase a copy of the record in a case arising under Parts 150, 151 and 152 of this chapter, he may do so upon payment of the fees prescribed in Part 383 of this chapter.

Attorney of Record

April 27, 1953

Mr. Teruo Juan Tsutsui
2158 Harrison Blvd.,
Ogden, Utah.

Dear Mr. Tsutsui:

The Special Hearing Officer, Mr. Milton Simmons, on March 16, 1953, rendered a decision in your case ordering you deported. His order was based on the finding of fact that you were suffering from tuberculosis when first you arrived here from Peru.

As a result it is necessary for an appeal to be taken from that adverse order to the Board of Immigration Appeals in Washington, D.C. To do this it is necessary that you send me \$25 which is the filing fee required under immigration regulations since Dec. 24, 1952, for filing an appeal.

Very truly yours,

5/27/53 p. 11 p. 63/111 Loc. 674 - Miller

Key records interrelated?

BIA denied Shuntka case

Ab at entry

Ab had no bearing on denial
of suspension

Get Shuntka

BIA → review

date - file No

① ~~with~~ with →

②

appeal

5/27/55 - Walter Sumner says fact
Trotter had AF at Tom
party not even considered
in denial of suspension.
only a 2 of deportability

OK: Whether why
of
B.H. wants re
Pumas

OK not for who to repeal
of denial appeal the
of also from deportability
of denial of suspension

146
W. M. Callen,
etc.

April 29, 1953

Mr. Teruo Juan Tsutsui
2158 Harrison Ave.
Ogden, Utah

Dear Mr. Tsutsui:

The Special Hearing Officer of the Immigration Service has entered an unfavorable order against you because you had tuberculosis when you arrived in the United States.

It is necessary to take an appeal from that order and the Immigration Service requires a \$25 filing fee on such appeal. In consequence, I would thank you to forward said sum to me.

Further, please write me immediately and let me know the answers to the following questions:

1. Did you contract tuberculosis while you were in Peru?
2. When did you first contract it?
3. Did you have any medical care and attention for it in Peru?
4. What was the name and address of your Doctor who treated you for tuberculosis?
5. If you first contracted tuberculosis after you were brought to the United States please let me know when you first complained of that illness?
6. Who treated you for that condition?
7. What was the name of the Doctor in the U.S. who treated you?
8. Are you still receiving medical treatment?
9. If so, give me the name and address of your Doctor.
10. Please ask your Doctor to write me and give me a report on the diagnosis and progress of your case.

It is important that you get this information for me promptly.

Very truly yours,

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Teruo Juan Tsutsumi
2158 Harrison Ave
Ogden Utah
May 3, 1953

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

Dear Mr. Collins

By your information I felt delection
of my case so I write with my imperfect
sentence please pardon me for my wrong
writing.

Here I send \$ 25.00 in money
order of the post and 2 papers against
my case and the answers to the questi-
ons indicated as following

1. yes I contracted tuberculosis while I
was in Peru
2. Year 1937 but I do not remember
the month.
3. Yes I had been attended and Medical
care for it about two month of my
memory
4. Dr. Juan Creano but I don't know
his address. he was attending in the
hospital patients of pisco. Peru

(2)

5 (A.) At first in the Internee camp of Kenedy Texas. I told to the Internee Doctor that I had tuberculosis while I was in Peru. Then I was held in the Internee hospital at August 21 1944. but I had not medical care

(B) From August 22⁽¹⁹⁴⁴⁾ at April 21 1946 in Santa Fe Internee hospital of New Mexico, and first complained was June 1945.

(C) From April 22 1946 at June 29 1946 in the immigration Building of San Pedro California, but did not received medical care but only treated

(D) From July 2 1946 at October 10 1947 in the Cristal City Internee Hospital of Texas and received medical treatment (Streptomycin) 2 weeks in the examination.

(E) From October 11 1947 at September 22 1950 in the U. S. Marine Hospital of Fort Stanton N. Mexico, received treatment by the Hospital's Doctors.

6 Treated me by the Doctors of the Hospitals.

7 5 (A) German Internee physician do not know his name.

May 6, 1953

U.S. Immigration and
Naturalization Service
630 Sansome Street
San Francisco, California

Attention: Milton T. Simmons, Esq.,
Special Inquiry Officer

Gentlemen:

In re: Teruo Juan Tsutsui
File No. A5 993 249-T HU MTS

I was taken to the hospital last week
and I request an extension of thirty days
within which to file notices of appeal and
supporting brief in the above matter.

Very truly yours,

CW

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
SAN FRANCISCO, CALIFORNIA

IN REPLYING PLEASE REFER TO THIS
FILE NUMBER

A5 993 249 T HU MTS

May 7, 1953

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

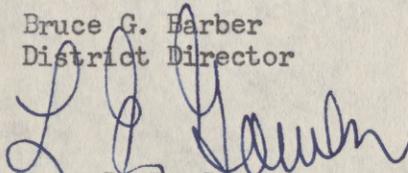
Re: TERUO JUAN TSUTSUI

Dear Sir:

Reference is made to your letter of May 6, 1953. You are advised that the case of your above-named client will be held in abeyance for a period of 30 days as requested.

Very truly yours,

Bruce G. Barber
District Director



By: L. E. Gowen
Acting Chief
Hearing Unit

WAYNE M. COLLINS
Attorney at Law
1701 Mills Tower
220 Bush Street
San Francisco 4, Calif.

C
O
P
Y

May 27, 1953

Mr. Teruo Juan Teutsui
2158 Harrison Blvd.,
Ogden, Utah

AIR MAIL

Dear Mr. Teutsui:

Please obtain promptly from your Doctor, the one at the Ogden Clinic, a letter stating your present condition with reference to tuberculosis and send it to me by air-mail in the envelope enclosed so that I can present it to the Immigration Service.

Certificate No. 5230 of H. W. Kopping, the Medical Officer in Temporary Charge at Fort Stanton, New Mexico, dated September 22, 1950, shows that you were discharged from the hospital there on that date with the remark that you were "Fit for duty".

Very truly yours,

Enc.

AIR MAIL

June 22, 1953

District Director
Immigration and Naturalization
Service
630 Sansome Street
San Francisco, California

Attn: Mr. Milton T. Simmons
Special Inquiry Officer

Dear Sir:

In re: Teruo Juan Tsutsui
File No: A-5 993 249

Enclosed find duplicate original notices of appeal, Form I-290A, together with three original briefs for appellant on said appeal. My check in the sum of \$25.00 appeal fee is enclosed.

Very truly yours,

June 25, 1953

Mr. Teruo Juan Tsutsui
2158 Harrison Boulevard
Ogden, Utah

Dear Mr. Tsutsui:

Enclosed find copy of the brief I have filed
in your appeal to the Board of Immigration Appeals.

I wish to inform you that prior to taking the
appeal I filed a motion to reopen your case for
which the Immigration Service charged a \$5.00
filing fee. I would thank you to reimburse me
for said sum.

Very truly yours,

July 10, 1953.

John T. Tsutsumi
3158 Harrison Blvd.
Ogden Utah

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

Dear Mr. Collins

I am so much thankful for your kind treatment that you give to my case is much difficult special I don't find the words to express my feeling for it, and maybe come over more troubles on my case but I am easy daily in my work because I believe your protection for my case.

Here enclosed \$5.00 in post cheque and I wish you to inform the expence of this case at any time please.

yours sincerely

John T. Tsutsumi

JP

~~these unfortunate persons were given by the Peruvian or U.S. Governments. prior or subsequent to their seizure and enforced banishment from Peru.~~ Following the conclusion of active hostilities the State Department which originally had ~~authorized~~ ^{condoned} their seizure and exile to the United States abandoned the contention they were possibly dangerous to Western Hemispheric security. Thereupon their detention in internment camps here was converted from technical custody under authority of the State Department to that of the Justice Department which had actual control of the ~~detention~~ internment camps. Thereafter, the Federal Bureau of Investigation cleared these special internees of any tinge of disloyalty and dangerousness to our country and to Western hemispheric security. Thereupon, their detention was converted into ~~detention by the U.S. Immigration Service~~

detention by the U.S. Immigration Service security. Thereafter, on ~~October~~ ^{August 16}, 1946, they were released from detention under the authority of the Alien Enemy Act, ~~and~~ ^{officially} This constituted an open admission ~~they~~ ^{by our Government that they} were not dangerous to our security and that they had not adhered to an enemy government or to the principles of an ~~alien~~ ^{such} government, ~~as theretofore proscribed by the President,~~ ^{which were necessary conditions to justify their} as a ~~condition justifying~~ removal or deportation under the provisions of the Alien Enemy Act, ~~and~~ ^{and} Executive Proclamation No. 2655 of ^{July 14, 1945,} (16 Fed. Reg. 947).

Thereafter, each was permitted to leave his place of internment and to seek gainful employment and residence in the United States. Teruo Juan Tsutsui thereupon succeeded in obtaining employment variously in Los Angeles, and subsequently in Ogden, ~~Utah~~ ^{Utah} where he has resided and worked for several years.

Ogden and later in Salt Lake City, Utah, where he resides and is employed.

From early 1946 to date our State Department, our Ambassador to Peru, the Central Office of the U.S. Immigration Service in Washington, D.C., representatives of the Roman Catholic Church in Peru, the Vatican, friends of these unfortunate persons in Peru and their counsel, ~~have endeavored~~ ~~in their best efforts~~

all being sympathetic to the plight of these unfortunate persons, have devoted their best efforts to persuade the Minister of Foreign Affairs of Peru and other public officials there to permit them to return to their homes in Peru. However, with few exceptions, the Peruvian authorities have turned deaf ears to entreaties made on their behalf. ^{Perhaps the sole reason} (~~One of the reasons~~ for this unjust refusal ~~doubtlessly~~ is due to the fact that local public authorities in Peru confiscated the assets of these unfortunates and apparently feel well rid of persons whose presence in Peru and possible efforts there to recover their assets might prove embarrassing especially were the repatriates to institute measures to compel them to disgorge their ill gotten appropriations.)

The present trouble that besets ~~him~~ Teruo Juan Tsutsui arises ~~out of the following~~ more immediately out of the following:

Despite the fact that he was brought to this country involuntarily and that his entry, for said reason, was legal for his arrest a telegraphic warrant ~~of~~ arrest dated March 31, 1946, was issued by the U.S Immigration Office in Washington, D.C , while he was detained, as aforesaid, at the Santa Fe Internment Ca,p, New Mexico. This warrant charged him with being in the United States in violation of the Immigration Act of May 26, 1924, in that at the time of his involuntary entry on March 21, 1944, he was not in possession of a valid immigration visa and ^{was} not ~~ex~~empted from the presentation of such a visa by that Act or by any regulation made thereunder, and also the Passport Act approved May 22, 1918, as amended, and the Act of February 5, 1917, in that at the time of his ~~aid~~ entry he did not

177 Legal says Leticia Mujaya (start)
start

STATEMENT RELATING TO TERUO JUAN TSUTSUI

Put in Line 3

Teruo Juan Tsutsui (U.S. Immigration File No. El Paso 1500/15127) resides at ~~45 1/2 West 2nd South Street, Salt Lake City, Utah~~ ~~3158 Harrison Avenue, Ogden, Utah~~ ^{45 1/2 West 2nd South Street, Salt Lake City, Utah}

~~He~~ is gainfully employed in that area.

He was born a Japanese national in Fukuoka-ken, Japan, on May 16, 1891. He is a widower and is of the age of 63 years. He emigrated to Peru on October 23, 1909, where he was admitted for lawful residence purposes. On May 25, 1918, he ~~was~~ married Rosa Sanchez, a native born Peruvian citizen of Spanish ancestry at Lima. Of this union a son, Eduardo Tsutsui, was born at ^{Jauja} ~~Jauja~~ Junin, Peru, on ~~Japan~~ January 5, 1920. His son is an adult person married to Yolanda Jolie Tsutsui, a Peruvian citizen, and resides at No. 175 Calle Ayacucho, Pisco, Peru. His parents, Japanese nationals, died in Japan. He has a brother and a sister living in Japan. His wife, Rosa, passed away in Junin ^{Jauja} Jauja, Peru, on September 9, 1939. He resided in Peru for thirty seven (37) years. ^{Since then he} ~~He~~ ^{uninterruptedly} has resided in this country for over ten (10) years. ~~since then.~~

present an unexpired passport or official document in the nature thereof issued by the government of the country (~~Japan~~) to which he owed allegiance or other travel document showing his origin and identity, ^{or} ~~as required by Executive Order in effect at time of entry.~~ (It is strange that these ridiculous charges should have been made in the face of the fact that he was brought here involuntarily by our government which had prior knowledge he did not possess such ~~passport~~ visa, ~~and~~ passport and credentials and gave him neither time nor opportunity to obtain ^{such documents.} ~~such things.~~ The circumstances of his seizure, ~~and~~ forcible transportation and ^{final} internment in this country constituted a clear waiver on the part of our Government to his possession and presentation of such documents ^{at the time of his entry.})

Thereafter the special inquiry officer ^{of HHS Dept of Justice} ordered ~~the~~ ^{him} Teruo Juan Tsutsui deported ~~because~~ because he had not presented such documents at the time of his ~~forced~~ ~~entry~~

involuntary ~~but quite legal~~ entry into the United States on March 16, 1953, and/denied his application for suspension of deportation theretofore made under the provisions of ~~the~~ Section 155(c) of Title 8 U.S Code which provides that the Attorney General may grant a suspension of deportation to aliens who possess good moral character and ~~who~~ have resided here for seven (7) years and whose deportation would cause ~~them~~ serious economic hardship. A motion to reopen and reconsider ~~the~~ his application for ~~denial~~ of a suspension and the order ~~deport~~ for his deportation was denied on June 15, 1953. His appeal to the Board of Immigration Appeals was denied on April 22, 1954.

That Board expressed the view that the Government was

not estopped from deporting ~~him~~ ^{him} Mr. Tutsui because he was brought involuntarily to the United States during World War II because, ⁱⁿ its opinion, ~~that~~ aliens brought here for internment ~~him~~ during the war who first were given an opportunity to depart voluntarily and then failed to depart might be deported as immigrants who had not satisfied the requirements of the immigration laws. That portion of its decision was based upon U.S. ex rel. Schirmeister v. Watkins, 171 Fed.2d. 858 (C.A. 2, 1949, cert. den. 337 U.S. 942, and U.S. ex rel. Sommerkamp v. Zimmerman, 178 Fed.2d. 645 (C A. 3, 1949), neither of which would seem applicable to the facts and circumstances relating to these Peruvian-Japanese who were uprooted from their homes and brought here from a foreign country by our own government and were not apprehended within our own political jurisdiction.

That Board denied his application for a suspension of deportation, ~~rather~~ ^{rather} reluctantly, we believe, in view of the fact that suspensions have been granted to all those Peruvian-Japanese nationals whose cases to date have been decided, ^{administratively.} Its denial is based on the fact that ~~at the time~~ ^{on} March 21, 1944, ~~he~~ ^{refer to} ~~was~~ entered the United States in custody of our Army authorities, as aforesaid, he was afflicted with tuberculosis. His condition, however, thereafter cleared up and he no longer suffers from that malady. The Board, ^{however,} concluded ~~that~~ it was barred from granting him a suspension of deportation because Section 19(c) of the Immigration Act of 1917 provided that ~~Section 19(d)~~ suspensions of deportation shall not be applicable to ~~an~~ aliens within the purview of Section 19(d) which provides, in effect, that suspensions of deportation shall not be granted ~~in~~ in the case of any alien who is deportable under "(4) any of the provisions of so much of subsection (a) of this section as related to criminals,

prostitutes, procurers, or other immoral persons, the
mentally and physically deficient, anarchists, and similar
classes;***". It concluded, therefore, that inasmuch as
Mr. Tsutsui was afflicted with tuberculosis at the time
of his ~~emphor~~ involuntary entry into the United States on
March 21, 1944, he was an alien comprehended by the words
"physically deficient" in Section 19(d) of that Act ~~and~~
~~that, therefore,~~ it was precluded from granting him a
suspension of deportation. It was unable to find him
entitled to such a suspension under the provisions of
Section 244(a)(1) of the Immigration and Nationality Act
of 1952 because that proviso excludes ~~likewise excluded~~
suspensions of deportation for ^{those} ~~these~~ aliens whose
deportation could not have been suspended by reason of
Section 19(d) of the Act of 1917, and it also concluded
~~that it could not by any means~~

~~it was not~~

it was not empowered to grant him a suspension under
the provisions of paragraphs ~~2~~ (2) to (5) of Section
~~244(a)~~ 244(a), ⁱⁿ ~~and, therefore, not authorized to grant~~
~~him a suspension of deportation.~~ In consequence, it granted
him voluntary departure from the United States and ordered
him deported if he failed to depart within the time ^{of departure}
be fixed. His time within which to depart has been set
for July 30, 1954. ~~He is not to be~~

We direct attention also to the fact that our Government had knowledge or was chargeable with knowledge of ~~the~~ ^{his} physical condition and that he ~~was~~ was afflicted with tuberculosis at the time he was seized and delivered into the custody of our ~~agents~~ Army authorities ~~in Peru~~ at Lima, Peru, and also at ~~the time he was delivered into the custody of~~ the time he entered this country in such custody on March 21, 1944. It subsequently gave him treatment for that condition. Inasmuch as our government itself brought him here with knowledge of his condition it ^{will appear that it} waived the question of his physical condition and exempted him from being in perfect physical condition ~~and~~ ^{at} that time and, therefore, would seem to be estopped from asserting that it operates as a bar to granting him a suspension of deportation.

We believe the Board erred in denying him a suspension of deportation simply because he was afflicted with tuberculosis at the time of his enforced entry into this country. We doubt that Congress intended that suspensions under that statute were to be denied to aliens suffering from a curable case of tuberculosis at the time of an illegal entry, ~~and~~ ^{we} suggest that it did not contemplate a denial of suspension of deportation to aliens afflicted with a curable case of tuberculosis at the time of a legal entry into this country.

Mr. Tsutsui would have been cleared of the disease while in Peru if our Government had not interfered with the course of his ~~treatment~~ medical treatment there by having him there seized and brought to this country.

Further, ~~that~~ ~~he~~ ~~no~~ ~~longer~~ ~~suffers~~ ~~from~~ ~~that~~ disease. After his arrival here he was treated for that condition during his internment ~~here~~ and was released as "Fit for duty" by the U.S Marine Hospital at Fort Stanton, New Mexico, after ~~confinement~~ ~~there~~ ~~from~~ October 11, 1947, to September 22, 1950. (See copy of Certificate of Discharge annexed hereto.) . Thereafter, he was ~~tested~~ ^{again tested} for the presence of the disease at the Thomas D. Dee Memorial Hospital in Ogden, Utah, ~~from~~ during a two weeks period in February, 1953, and ~~he~~ was found to be cleared of tuberculosis. (See copy of letter of M. Paul Southwick, M.D , of ~~said~~ ^{the Ogden Clinic} ~~hospital~~ ~~annexed~~ ~~hereto~~ hereto.)

Mr. Tsubota

~~He~~ would welcome a return to his Peruvian home and his son there but the Peruvian Government seems adamant against the return of Peruvian-Japanese to their homes. *Our Immigration Service now wishes to deport him to Japan.*

He is in imminent danger of being deported to Japan where there is scarcely a chance he could obtain employment and where it is doubtful his brother could assist him.

It would be cruel and unusual punishment for our Government,

therefore, to deport him to Japan from which he has been absent for over forty-seven (47) ~~years~~ *years, especially in view of*

The fact ~~years~~ after it has caused him to be uprooted from his home and family in Peru *and to be transported into exile without* ~~any~~ *prospect or hope of being reunited with his family.*

It is respectfully urged, therefore, that you use your good offices in introducing a special bill in Congress staying his deportation ~~and~~ granting him a suspension of deportation and granting him permanent resident status

in this country. He has exhausted the administrative remedies that were available to him to prevent his deportation and a special congressional bill for his relief is the only available avenue to prevent this mishap from occurring.

Respectfully submitted

Wayne M. Collins
1701 Mills Tower,
220 Bush Street,
San Francisco 4, Calif.
Garfield 1-1218

Attorney for Teruo Juan Tsutsui

CERTIFICATE OF DISCHARGE

No. 5230

From U. S. MARINE HOSPITAL
(Marine hospital or relief station)

At FORT STANTON, NEW MEXICO

September 22, 1950

THIS IS TO CERTIFY that TSUTSUI,
(Surname)

Teruo
(First) (Middle)

was treated in the Hospital as a Hospital in- patient
(Hospital or dispensary) (Hospital or out-)

from October 11, 1947 to September 22, 1950
(Date of admission) (Date of discharge)

Class of beneficiary Immigration Detainee Condition on discharge Arrested

Reason for discharge Released in custody of Immigration Service at their request.

Certified service on last vessel _____ Name of vessel _____

DESCRIPTION	
Nativity	<u>Fukuokaken, Japan</u>
Date of birth	<u>May 16, 1891</u>
Color	<u>Yellow</u>
Complexion	<u>Dark</u>
Height	<u>65 inches</u>
Eyes	<u>Black</u>
Hair	<u>Black.</u>

REMARKS: Fit for duty.

H. W. Kopping
H. W. Kopping, S. A. Surgeon. (R)

Medical Officer in Temporary Charge

(Signature of patient)

NOTE.—Retain copy for station files.

125

Affidavit of Teruo Juan Tsutsui

I, Teruo Juan Tsutsui (U.S. Immigration File No. El Paso 1500/15127) reside at 45½ West 2nd South Street, Salt Lake City, Utah. I am employed as a housekeeper by the Utah Hotel Company at Salt Lake City, Utah.

I was born a Japanese national at Fukuoka-ken, Japan, on May 16, 1891, and now am 63 years of age. My father, Yoshimatsu Tsutsui, and my mother, Yasuko Tsutsui, died in Japan. I am a widower. On October 23, 1909, when I was 18 years of age I emigrated to Peru where I was admitted for lawful residence purposes. On May 25, 1918, at Lima, Peru, I married Rosa Sanchez, a native born Peruvian citizen of Spanish ancestry. Of this union my son, Eduardo Tsutsui was born on January 5, 1920, at Janja Junin, Peru. He is a citizen of Peru. He is engaged in the automobile servicing business in Pisco, Peru. He is married to Yolanda Jolie Tsutsui, a Peruvian citizen of Spanish ancestry. He resides at No. 125 Calle Ayacucho, Pisco, Peru. He has four children, Zoila, a daughter, seven years of age, Juan, a son, age six years, Carmen, a daughter, age three years, and Genoveia, a son, age one year. My brother Satoru died in Japan in August, 1953. I have a sister, Masaru Iwata, residing at Shinnomachi, 2-chome, Nakatsushi, Oita-ken, Japan. My wife, Rosa, passed away in Juni Jauja, Peru, on September 9, 1939.

I resided in Peru for thirty-five (35) years. Since then I have resided uninterruptedly in the United States for over ten (10) years.

My education consists of the following:

I am acquainted with the Japanese and Spanish languages but my knowledge of English is limited.

On January 6, 1944, along with other Japanese nationals long resident in Peru, I was seized at Pisco, Peru, by Peruvian authorities, without any charges being brought against me and without any hearing

being given me on the cause for such seizure, was held incommunicado and then was delivered over to U.S. Army authorities at Lima, Peru, and was transported involuntarily to the United States. I entered this country, in U.S. Army custody, on March 21, 1944.

Thereafter, along with hundreds of other persons of Japanese lineage from Peru, in due course I was deposited in the Santa Fe Alien Internment Camp, Santa Fe, New Mexico, as a Japanese national under the ~~permission~~ ^{provision} of the Alien Enemy Act (Title 50 U.S. Code, Sec. 21 et. seq.). No charges of disloyalty or of dangerousness to Peru, United States or to western hemispheric security were brought against me and no hearings were given me on any such questions by the governments of the United States or Peru prior or subsequent to my banishment from Peru. I have never been charged or convicted of any crime in my life. Thereafter, on August 16, 1946, I was released from detention under the authority of the Alien Enemy Act.

While in Peru my occupation was _____

~~The State Department~~

From the early part of 1946 to the present time the U.S. State Department, U.S. Ambassador to Peru, the Central Office of the U.S. Immigration Service, the Vatican, representatives of the Roman Catholic Church in Peru, numerous friends and organizations and my attorney have endeavored to ~~be~~ persuade the Peruvian Government to allow me and the remaining members of the Peruvian-Japanese

group who were banished from Peru to return to our former homes and families there but the Peruvian government thus far ~~has~~ has refused to authorize such a return.

Following my release from internment and up to November, 1950, I succeeded in obtaining employment in various occupations in Los Angeles, California, and vicinity, in such capacities as _____ . From November, 1950, to July, 1951, I was employed by the Sacred Heart Academy at Pasadena, California, as a dishwasher; from September 28, 1951, to August, 1953, by the Ben Lomond Hotel at Ogden, Utah, in like capacity, and from October 21, 1953, to the present time by the Utah Hotel Company at Salt Lake City, Utah, as a housekeeper. My present income is approximately \$65.00 per month plus an allowance of one meal per working day. My assets consist of the sum of \$400.00 plus my wearing apparel and personal effects. A telegraphic warrant for my arrest dated March 31, 1946, was issued by the U.S. Immigration office in Washington, D.C. while I was detained, at the Santa Fe Alien Internment Camp, New Mexico. This warrant charged me with being in the United

States in violation of the Immigration Act of May 26, 1924, in that at the time of my involuntary entry on March 21, 1944, I was not in possession of a valid immigration visa and was not exempted from the presentation of such a visa by that Act or by any regulation made thereunder, and also the Passport Act approved May 22, 1918, as amended, and the Act of February 5, 1917, in that at the time of his said entry I did not present an unexpired passport or official document in the nature thereof issued by the government of the country to which I owed allegiance or other travel document showing my origin and identity.

Thereafter the special inquiry officer of the U.S. Immigration Service ordered me deported because I had not presented such documents at the time of my involuntary entry into the United States and on March 16, 1953, denied my application for suspension of deportation theretofore made under the provisions of Section 155(c) of Title 8 U.S. Code which provides that the Attorney General may grant a suspension of deportation to aliens who possess good moral character and who have resided here for seven (7) years and whose deportation would cause serious economic hardship. A motion to reopen and reconsider my application for a suspension and the order for my deportation was denied on June 15, 1953. My appeal to the Board of Immigration Appeals was denied on April 22, 1954.

That Board expressed the view that the Government was not estopped from deporting me because, in its opinion, aliens ~~brought~~ brought here for internment during the war who first were given an opportunity to depart voluntarily and then failed to depart might be deported as immigrants who had not satisfied the requirements of the immigration laws.

That Board denied my application for a suspension of deportation, rather reluctantly, I believe, in view of the fact that suspensions have been granted to all those Peruvian-Japanese nationals whose cases to date have been decided administratively. Its denial is based on the fact that on March 21, 1944, when I entered the United States in custody of our Army authorities, as aforesaid, I was afflicted with tuberculosis. That condition, however, thereafter cleared up and I no longer suffer from that malady. The Board, however, concluded that it was barred

from granting me a suspension of deportation because Section 19(c) of the Immigration Act of 1917 provides that suspensions of deportation shall not be applicable to aliens within the purview of Section 19(d) which provides, in effect, that suspensions of deportation shall not be granted in the case of any alien who is deportable under "(4) any of the provisions of so much of sub-section (a) of this section as relates to criminals, prostitutes, procurers, or other immoral persons, the mentally and physically deficient, anarchists, and similar classes;***." It concluded, therefore, that inasmuch as I was afflicted with tuberculosis at the time of my involuntary entry into the United States on March 21, 1944, I was an alien comprehended by the words "physically deficient" in Section 19(d) of that Act it was precluded from granting ~~me~~^{me} a suspension of deportation. It was unable to find me entitled to such a suspension under the provisions of Section 244(a) (1) of the Immigration and Nationality Act of 1952 because that proviso excludes suspensions of deportation for those aliens whose deportation could not have been suspended by reason of Section 19(d) of the Act of 1917. It also concluded it was not empowered to grant me a suspension under the provisions of paragraphs (2) to (5) of Section 244(a). In consequence, it granted me voluntary departure from the United States and ordered me deported if I failed to depart within the time of departure be fixed. The time within which to depart was set for July 30, 1954, but my deportation has been stayed by the introduction of Senate Bill S-3814 and a like House Bill. I no longer suffer from that disease. After my ~~app~~ arrival here I was treated for that condition during my internment and was released as "Fit for duty" by the U.S. Marine Hospital at Fort Stanton, New Mexico, after treatment there from October 11, 1947, to September 22, 1950. (See copy of Certificate of Discharge annexed hereto and marked Exhibit A.) Thereafter I was again tested for the presence of the disease at the Thomas D. Dee Memorial Hospital in Ogden, Utah, during a two weeks period in February, 1953, and was found to be cleared of tuberculosis. (See copy of letter of M. Paul Southwick, M.D., of the Ogden Clinic annexed hereto and marked Exhibit B.

I have never been accused or convicted of any crime in Japan, Peru or the United States. I have never been arrested at any time except for my aforesaid seizure and banishment from Peru and the arrest in the aforesaid deportation proceeding during my said detention.

1
2
3 STATEMENT RELATING TO TERUO JUAN TSUTSUI
4

5 Teruo Juan Tsutsui (U.S. Immigration File No. El Paso
6 1500/15127) resides at 45½ West 2nd South Street, Salt Lake City,
7 Utah, and he is gainfully employed in that area.

8 He was born a Japanese national in Fukuoka-ken, Japan, on
9 May 16, 1891. He is a widower and is of the age of 63 years.
10 He emigrated to Peru on October 23, 1909, where he was admitted
11 for lawful residence purposes. On May 25, 1918, he married Rosa
12 Sanchez, a native born Peruvian citizen of Spanish ancestry at
13 Lima. Of this union a son, Eduardo Tsutsui, was born at Janja
14 Junin, Peru, on January 5, 1920. His son is an adult person
15 married to Yolanda Jolie Tsutsui, a Peruvian citizen, and resides
16 at No. 175 Calle Ayacucho, Pisco, Peru. His parents, Japanese
17 nationals, died in Japan. He has a brother and a sister living
18 in Japan. His wife, Rosa, passed away in Juni Jauja, Peru, on
19 September 9, 1939. He resided in Peru for thirty seven (37) years.
20 Since then he has resided uninterruptedly in this country for over
21 ten (10) years.

22 On January 6, 1944, along with hundreds of other Japanese
23 nationals long resident in Peru, he was seized at Pisco, Peru,
24 by Peruvian authorities without any charges being brought against
25 him and without any hearing being given him on the cause for such
26 seizure, was held incommunicado and then was delivered over to
27 U.S. Army authorities at Lima, Peru, and was transported involun-
28 tarily to the United States. He entered this country, in army
29 custody, on March 21, 1944. This entry was a legal entry.

30 Thereafter, he, along with hundreds of other persons of
31 Japanese lineage from Peru, in due course was deposited in the
32 Santa Fe Alien Internment Camp, Santa Fe, New Mexico. The seizure

1 of these innocent persons in Peru, their banishment from that
2 country and their internment here resulted from our mistaken belief
3 the Peruvian government would send us aliens who were dangerous to
4 Western hemispheric security. However, we were misled. The Peru-
5 vian government uprooted substantially all the Japanese aliens and
6 their Peruvian citizen and children from their homes in Peru and
7 delivered them over to us. On their arrival here we confined the
8 Japanese nationals under the pretense they were subject to the Alien
9 Enemy Act (Title 50 U.S. Code, Sec. 21 et. seq.) and classified
10 their wives and children as "voluntary internees." No charges of
11 disloyalty or of dangerousness to western hemispheric security
12 were brought against these unfortunate persons and no hearings
13 were given them on any such questions by the Peruvian or our own
14 governments prior or subsequent to their banishment from Peru.

15 Following the conclusion of active hostilities the State
16 Department which originally had condoned their seizure and exile
17 to the United States abandoned the contention they were possibly
18 dangerous to Western Hemispheric security. Thereupon their de-
19 tention in internment camps here was converted from technical
20 custody under authority of the State Department to that of the
21 Justice Department which had actual control of the camps. There-
22 after, the Federal Bureau of Investigation cleared these special
23 internees of any tinge of disloyalty and dangerousness to our
24 country and to Western hemispheric security. Thereafter, on
25 August 16, 1946, they were released from detention under the
26 authority of the Alien Enemy Act. This constituted an open official
27 admission by our government that they were not dangerous to our
28 security and that they had not adhered to an enemy government or
29 to the principles of such government which were necessary conditions
30 to justify their removal or deportation under the provisions of the
31 Alien Enemy Act and Executive Proclamation No. 2655 of July 14, 1945,
32 (10 Fed. Reg. 8947).

1 Thereafter, each was permitted to leave his place of internment
2 and to seek gainful employment and residence in the United States.
3 Teruo Juan Tsutsui thereupon succeeded in obtaining employment
4 variously in Los Angeles, subsequently in Ogden and later in Salt
5 Lake City, Utah, where he resides and is employed.

6 From early 1946 to date our State Department, our Ambassador
7 to Peru, the Central Office of the U.S. Immigration Service in
8 Washington, D.C., representatives of the Roman Catholic Church in
9 Peru, the Vatican, friends of these unfortunate persons in Peru
10 and their counsel, all being sympathetic to the plight of these
11 unfortunate persons, have devoted their best efforts to persuade
12 the Minister of Foreign Affairs of Peru and other public officials
13 there to permit them to return to their homes in Peru. However,
14 with few exceptions, the Peruvian authorities have turned deaf
15 ears to entreaties made on their behalf. (Perhaps the sole reason
16 for this unjust refusal is due to the fact that local public
17 authorities in Peru confiscated the assets of these unfortunates
18 and apparently feel well rid of persons whose presence in Peru
19 and possible efforts there to recover their assets might prove
20 embarrassing especially were the repatriates to institute measures
21 to compel them to disgorge their ill gotten appropriations.)

22 The present trouble that besets Teruo Juan Tsutsui arises
23 more immediately out of the following:

24 Despite the fact that he was brought to this country involun-
25 tarily and that his entry, for said reason, was legal a telegraphic
26 warrant for his arrest dated March 31, 1946, was issued by the
27 U.S. Immigration Office in Washington, D.C. while he was detained,
28 as aforesaid, at the Santa Fe Internment Camp, New Mexico. This
29 warrant charged him with being in the United States in violation
30 of the Immigration Act of May 26, 1924, in that at the time of
31 his involuntary entry on March 21, 1944, he was not in possession
32 of a valid immigration visa and was not exempted from the presen-
tation of such a visa by that Act or by any regulation made

1 thereunder, and also the Passport Act approved May 22, 1918, as
2 amended, and the Act of February 5, 1917, in that at the time of
3 his said entry he did not present an unexpired passport or official
4 document in the nature thereof issued by the government of the
5 country to which he owed allegiance or other travel document
6 showing his origin and identity. (It is strange that these charges
7 should have been made in the face of the fact that he was brought
8 here involuntarily by our government which had prior knowledge he
9 did not possess such visa, passport and credentials and gave him
10 neither time nor opportunity to obtain such documents. The cir-
11 cumstances of his seizure, forcible transportation and final
12 internment in this country constituted a clear waiver on the part
13 of our Government to his possession and presentation of such docu-
14 ments at the time of his entry.)

15 Thereafter the special inquiry officer of the U.S. Immigration
16 Service ordered him deported because he had not presented such
17 documents at the time of his involuntary entry into the United
18 States and on March 16, 1953, denied his application for suspension
19 of deportation theretofore made under the provisions of Section
20 155(c) of Title 8 U.S. Code which provides that the Attorney General
21 may grant a suspension of deportation to aliens who possess good
22 moral character and who have resided here for seven (7) years and
23 whose deportation would cause serious economic hardship. A motion
24 to reopen and reconsider his application for a suspension and the
25 order for his deportation was denied on June 15, 1953. His appeal
26 to the Board of Immigration Appeals was denied on April 22, 1954.

27 That Board expressed the view that the Government was not
28 estopped from deporting him because, in its opinion, aliens brought
29 here for internment during the war who first were given an oppor-
30 tunity to depart voluntarily and then failed to depart might be
31 deported as immigrants who had not satisfied the requirements of
32 the immigration laws. That portion of its decision was based upon

1 U.S. ex rel. Schirrmeyer v. Watkins, 171 Fed.2d. 858 (C.A. 2,
2 1949), cert. den. 337 U.S. 942, and U.S. ex rel. Sommerkamp v.
3 Zimmerman, 178 Fed.2d. 645 (C.A. 3, 1949), neither of which would
4 seem applicable to the facts and circumstances relating to these
5 Peruvian-Japanese who were uprooted from their homes and brought
6 here from a foreign country by our own government and were not
7 apprehended within our own political jurisdiction.

8 That Board denied his application for a suspension of depor-
9 tation, rather reluctantly, we believe, in view of the fact that
10 suspensions have been granted to all those Peruvian-Japanese
11 nationals whose cases to date have been decided administratively.
12 Its denial is based on the fact that on March 21, 1944, when he
13 entered the United States in custody of our Army authorities, as
14 aforesaid, he was afflicted with tuberculosis. His condition,
15 however, thereafter cleared up and he no longer suffers from that
16 malady. The Board, however, concluded that it was barred from
17 granting him a suspension of deportation because Section 19(c) of
18 the Immigration Act of 1917 provides that suspensions of deporta-
19 tion shall not be applicable to aliens within the purview of
20 Section 19(d) which provides, in effect, that suspensions of
21 deportation shall not be granted in the case of any alien who is
22 deportable under "(4) any of the provisions of so much of sub-
23 section (a) of this section as relates to criminals, prostitutes,
24 procurers, or other immoral persons, the mentally and physically
25 deficient, anarchists, and similar classes;***". It concluded,
26 therefore, that inasmuch as Mr. Tsutsui was afflicted with tuber-
27 culosis at the time of his involuntary entry into the United States
28 on March 21, 1944, he was an alien comprehended by the words
29 "physically deficient" in Section 19(d) of that Act it was pre-
30 cluded from granting him a suspension of deportation. It was
31 unable to find him entitled to such a suspension under the provi-
32 sions of Section 244(a) (1) of the Immigration and Nationality
Act of 1952 because that proviso excludes suspensions of deportation

1 for those aliens whose deportation could not have been suspended
2 by reason of Section 19(d) of the Act of 1917. It also concluded
3 it was not empowered to grant him a suspension under the provisions
4 of paragraphs (2) to (5) of Section 244(a). In consequence, it
5 granted him voluntary departure from the United States and ordered
6 him deported if he failed to depart within the time of departure
7 be fixed. His time within which to depart has been set for July
8 30, 1954.

9 We direct attention also to the fact that our Government had
10 knowledge or was chargeable with knowledge of his physical con-
11 dition and that he was afflicted with tuberculosis at the time
12 he was seized and delivered into the custody of our Army authori-
13 ties at Lima, Peru, and also at the time he entered this country
14 in such custody on March 21, 1944. It subsequently gave him
15 treatment for that condition. Inasmuch as our Government itself
16 brought him here with knowledge of his condition it would appear
17 that it waived the question of his physical condition and exempted
18 him from being in perfect physical condition at that time and,
19 therefore, would seem to be estopped from asserting that it
20 operates as a bar to granting him a suspension of deportation.

21 We believe the Board erred in denying him a suspension of
22 deportation simply because he was afflicted with tuberculosis at
23 the time of his enforced entry into this country. We doubt that
24 Congress intended that suspensions under that statute were to be
25 denied to aliens suffering from a curable case of tuberculosis at
26 the time of an illegal entry. We suggest that it did not contem-
27 plate a denial of suspension of deportation to aliens afflicted
28 with a curable case of tuberculosis at the time of a legal entry
29 into this country.

30 Mr. Tsutsui would have been cleared of the disease while in
31 Peru if our Government had not interfered with the course of his
32 medical treatment there by having him there seized and brought

1 to this country. Further, he no longer suffers from that disease.
2 After his arrival here he was treated for that condition during
3 his internment and was released as "Fit for duty" by the U.S.
4 Marine Hospital at Fort Stanton, New Mexico, after treatment
5 there from October 11, 1947, to September 22, 1950. (See copy
6 of Certificate of Discharge annexed hereto.). Thereafter, he was
7 again tested for the presence of the disease at the Thomas D.
8 Dee Memorial Hospital in Ogden, Utah, during a two weeks period
9 in February, 1953, and was found to be cleared of tuberculosis.
10 (See copy of letter of M. Paul Southwick, M.D., of the Ogden
11 Clinic annexed hereto.)

12 Mr. Tsutsui would welcome a return to his Peruvian home and
13 his son there but the Peruvian Government seems adamant against
14 the return of Peruvian-Japanese to their homes. Our Immigration
15 Service now wishes to deport him to Japan.
16

17 He is in imminent danger of being deported to Japan where
18 there is scarcely a chance he could obtain employment and where
19 it is doubtful his brother could assist him. It would be cruel
20 and unusual punishment for our Government, therefore, to deport
21 him to Japan from which he has been absent for over forty-seven
22 (47) years, especially in view of the fact it has caused him to
23 be uprooted from his home and family in Peru and to be transported
24 into exile without prospect or hope of being reunited with his
25 family.
26

27 It is respectfully urged, therefore, that you use your good
28 offices in introducing a special bill in Congress staying his
29 deportation, granting him a suspension of deportation and granting
30 him permanent resident status in this country. He has exhausted
31 the administrative remedies that were available to him to prevent
32

1 his deportation and a special congressional bill for his relief
2 is the only available avenue to prevent this mishap from occurring.

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Respectfully submitted

Wayne M. Collins
1701 Mills Tower
220 Bush Street
San Francisco 4, Calif.
Garfield 1-1218

Attorney for Teruo Juan Tsutsui

CERTIFICATE OF DISCHARGE

No. 5230

From U. S. MARINE HOSPITAL
(Marine hospital or relief station)

At FORT STANTON, NEW MEXICO

September 22, 19 50

THIS IS TO CERTIFY that TSUTSUI,
(Surname)

Teruo
(First)

(Middle)

was treated in the Hospital
(Hospital or dispensary)

as a

Hospital in- patient
(Hospital or out-)

from October 11, 19 47 to
(Date of admission)

September 22, 19 50
(Date of discharge)

Class of beneficiary Immigration Detainee

Condition on discharge Arrested

Reason for discharge Released in custody of Immigration Service at their request.

Certified service on last vessel

Name of vessel

DESCRIPTION	
Nativity	Fukuokaken, Japan
Date of birth	May 16, 1891
Color	Yellow
Complexion	Dark
Height	65 inches
Eyes	Black
Hair	Black.

REMARKS: Fit for duty.

H. W. Kopping
H. W. Kopping, S. A. Surgeon. (R)
Medical Officer in Temporary Charge

(Signature of patient)

NOTE.—Retain copy for station files.

SURGERY
RUFON F. HOWE, M. D.
REVUE HODDARRE, M. D.
C. B. VAN HOOK, M. D.
PEDIATRICS
WAT E. BUNDET, M. D.
EAR, NOSE AND THROAT
D. WILSON HALL, M. D.

THE OGDEN CLINIC

255 HARRISON BLVD.
OGDEN, UTAH

OBSTETRICS AND GYNECOLOGY
E. CONRAD MORSON, M. D.
INTERNAL MEDICINE
W. F. DENNIS, M. D.
M. PAUL SOUTHWICK, M. D.
FLOYD W. SEAGER, M. D.
DON DEE OLSEN, M. D.

June 2, 1953

Wayne M. Collins
Attorney At Law
220 Bush Street
San Francisco, California

Dear Mr. Collins:

Mr. Teruo Juan Tsutsui was hospitalized at the Thomas D. Dee Memorial Hospital for two weeks in February 1953 to determine the status of his tuberculosis. Many sputum studies were negative for the tubercular bacillus, and chest X-rays compared with ones we obtained from Ft. Stanton, New Mexico showed actual improvement over those X-rays of September 1950. A bronchoscopic examination with aspirations of secretions was negative for tuberculosis bacillus, both by smear and by culture.

The patient has continued to feel well, his weight has been constant, and there have been no signs of any activity of the tuberculosis. He is working daily, and I would state that he is still "fit for duty".

Sincerely yours,

M. Paul Southwick
M. Paul Southwick, M. D.

MPS/lt