17:19 MIYASHIRO, KAMACHO 1950 - 1954

78/177
C

BEFORE THE BOARD OF IMMIGRATION APPEALS

BEFORE THE COMMISSIONER OF IMMIGRATION

In the Matter of MIYASHIRO, Kamacho	)	No. _____

APPLICATION TO REOPEN CAUSE FOR A SUSPENSION OF DEPORTATION

KAMACHO MIYASHIRO 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

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

Attorney for Applicant

AFFIDAVIT OF MERITS

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

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

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

Attorney for Applicant.

Subscribed and sworn to before me
this 14th day of July, 1954.

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

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

Sept. 14, 1950

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

Gentlemen:

In re: Kamacho Miyashiro
Seabrook Farms, New Jersey

Enclosed find three original application forms to reopen cause for the purpose of enabling Kamacho Miyashiro, 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, Philadelphia, Penn., inasmuch as Mr. Miyashiro resides at Seabrook Farms, Bridgeton, New Jersey. A notice of appearance had been forwarded previously to the Immigration Office at Philadelphia.

If your Board has not yet acquired jurisdiction in the cause, I would be grateful were you to forward the enclosed application for suspension of deportation to the Commissioner of Immigration at Washington, D. C., before whom the cause necessarily must be pending if not before your Board.

Very truly yours,

Copy to:
USI&NS, Philadelphia, Pa.

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

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

September 27, 1950

In re: Kamacho Miyashiro
File No. 5977631
ALM:rmd

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

My dear Mr. Collins:

This will acknowledge receipt of your communication dated September 14, 1950, with reference to the above case.

You will be informed of further action which may be taken by the Board. However, the filing of a motion with the Board does not operate to stay the outstanding order in the case. Until such time as a new decision is entered by the Board, the outstanding order remains in full force and effect.

Sincerely yours,

Thos. G. Finucane
Chairman

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

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

5977631
Miyashiro or
Miyagusuku

October 5, 1950

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
Chairman

U. S. DEPARTMENT OF JUSTICE

BOARD OF IMMIGRATION APPEALS

OCT 5 - 1950

IN THE MATTER
OF
KAMACHO MIYAGUSUKU
or
KAMACHO MIYASHIRO

FILE NO: A-5977631

IN DEPORTATION PROCEEDINGS

MOTION

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

This case comes before us for reconsideration.

Our most recent order herein directed that action be held in abeyance pending the conclusion of litigation involving the same subject matter, viz: The possible relief from deportation of certain aliens of the Japanese race. Since that order was entered such litigation has been concluded or has become inactive and Congress has amended Section 19(c) to broaden the class of aliens who may be granted suspension of deportation (Public Law 863, 80th Congress, approved July 1, 1948).

ORDER: It is ordered that the hearing be reopened for the reception of such application for relief from deportation as may be made and for further appropriate proceedings in connection therewith.

IT IS FURTHER ORDERED that the outstanding order and warrant of deportation be withdrawn.

Chairman

LLN/mgb

December 20, 1950 Exp. 0400/19184

Kamacho Miyashiro
c/o Seabrook Farms
Bridgeton, New Jersey

Dear Sir:

On October 5, 1950, expulsion proceedings in your case was ordered reopened so that you may apply for suspension of deportation. In connection therewith certain documents are required.

There is attached Form 4-89 with the required documents checked, which should be submitted to this office within the next 30 days.

Very truly yours,

Henry L. Mulle

Henry L. Mulle
Acting District Director

CC: Wayne M. Collins, Esquire
Mills Tower, 220 Bush St.
San Francisco 4, California

4 - 89
Rev. 4-20-50

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Lafayette Building, Fifth & Chestnut Streets
Philadelphia 6, Pennsylvania

In reply refer
to file number

Dear Sir (or Madam):

In support of your application for suspension of deportation, you are required to submit the following checked documents:

( ) Certificate of your marriage to your present spouse.

( ) Proof of termination of any prior marriages of either you or your spouse.

( ) Proof of spouse's birth, if born in the United States.

( ) Birth certificates of children.

(x) Affidavits from two witnesses, preferably citizens of the United States, who have known you for at least five years, containing the following: Name, address and citizenship of the deponent; circumstances under which he or she became acquainted with you and the length and nature of such acquaintanceship; information concerning your moral character and loyalty to the United States and his or her opinion as to whether or not you should be permitted to become a citizen of the United States. Forms for this purpose are attached.

(x) Affidavit from your employer showing the length of employment, salary, position and his opinion as to your character and dependability.

(x) Police letters from the cities or towns in the United States and abroad in which you have lived during the past five years, indicating whether or not any criminal record exists in your name.

(x) Two (2) photographs, passport style ($1\frac{1}{2}$" wide x 2" long, distance from top of head to chin $1\frac{1}{4}$", front view, without hat, on thin paper against light background).

(x) I-256
( ) Your Alien Registration Receipt Card.

(x) Forward documentary evidence that you have resided continuously in the United States for seven years and were residing here on July 1, 1948. Such documentary evidence may consist of a record of employment, a record of attendance at school or church, a bank record showing a sequence of transactions, receipted bills for gas and electric or telephone service, or other similar records.

The original of each document must be submitted and, if you desire the return thereof, a photostatic copy must also be submitted. All certificates should be issued by civil authorities. Foreign language documents should be accompanied by certified translations. All documents requested must be submitted within 30 days.

Very truly yours,

Karl I. Zimmerman,
District Director.

I-226
Rev. 11-3-50

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Lafayette Building, Fifth & Chestnut Streets
Philadelphia 6, Pennsylvania

Kamacho Miyashiro
Dormitory 2, Room 96
Seabrook Farms
Bridgeton, New Jersey

Date Exp. January 7, 1952

File No. 0400-19184

Dear Sir:

Pursuant to warrant of arrest served on you on April 2, 1946 you are advised to appear at 10:00 AM, on January 16, 1952, in Room 717 Lafayette Building, 5th & Chestnut Sts., Philadelphia, Pennsylvania for a reopened hearing to enable you to show cause why you should not be deported from the United States in conformity with law.

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

It is asserted that (1) you are an alien, and (2) **you entered the United States at San Francisco, California on June 15, 1943, and 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**

(OVER)

You are advised that at the hearing you have the right to be represented by counsel of your own choice and at your own expense, or by any other person duly qualified to practice before the Immigration and Naturalization Service. You are further advised that you should bring to the hearing any documents which you desire to have considered in connection with the case. If any of these documents is in a foreign language, you should bring the original and certified translation thereof. **A copy of this letter is being furnished your counsel, Wayne M. Collins, Esquire, Mills Tower, 220 Bush Street, San Francisco, California.**

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

COPY TO:

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

Karl I. Zimmerman
Karl I. Zimmerman
District Director

Passport Act approved May 22, 1918, as amended, and the Act of Feb. 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 not entitled to enter the United States under any exception of paragraph (c), Section 13 thereof.

File

January 21, 1952

District Director
Immigration and Naturalization Service
Lafayette Building, Fifth & Chestnut Sts.
Philadelphia 6, Pennsylvania

Dear Sir:

In re: Banroku Harada - File No. A-5,967,229
Ichisuke Fujimoto - 0400-19471
Kamacho Miyashiro - 0400-19184
Shizuo Taura - 0400-19494

I wish to thank you for the notices that you sent to me concerning the hearings of the aliens above-named which had been set during January, 1952.

I will be grateful if you would forward to me a copy of the recommendations that are made in each of the said cases.

Very truly yours,

REOPENED HEARING: 0400/19184

Date:	January 16, 1952
Place:	Philadelphia, Pa.
Hearing Officer:	Willard S. Layton
Stenographer:	Mary T. Cody
Interpreter:	Fukuji Sasaki 833 E. Parsonage Road Seabrook, N. J.
Respondent's Counsel: (Not present)	Wayne M. Collins, Esq. Mills Tower 220 Bush Street San Francisco, Cal.
Respondent:	KAMACHO MIYASHIRO

HEARING OFFICER TO RESPONDENT:

Q. Are you able to speak and understand the English language?
A. No.

HEARING OFFICER TO INTERPRETER:

Q. Will you please identify yourself for the record?
A. Fukuji Sasaki, 833 E. Parsonage Road, Seabrook, N. J.

Q. Please stand and raise your right hand (complies). Do you solemnly swear that you will accurately interpret from English to Japanese, and vice versa, all that is said at this hearing, and accurately translate any documents which may be presented, to the best of your knowledge and ability, so help you God?
A. Yes.

HEARING OFFICER TO RESPONDENT THROUGH INTERPRETER:

Q. What is your full, true and correct name?
A. KAMACHO MIYASHIRO.

Q. Are you the same person who was accorded a hearing in deportation proceedings at Santa Fe Internment Camp, Santa Fe, N. M., on April 8, 1946?
A. Yes.

Q. Please rise and be sworn (complies). Do you solemnly swear that all the statements you are about to make will be the truth, the whole truth, and nothing but the truth, so help you God?
A. Yes, I do.

Q. You are informed that the hearing in your case was ordered reopened by the Board of Immigration Appeals on October 5, 1950, for the purpose of affording you an opportunity to apply for relief from deportation and for further appropriate action in connection therewith. Do you understand?
A. Yes, I understand.

Q. It is noted that you have been represented by WAYNE M. COLLINS, Esq., Mills Tower, 220 Bush Street, San Francisco, Cal. Are you still being represented by MR. COLLINS?
A. Yes.

Q. Did he accompany you here today?
A. No, he is not here today.

Q. Are you now ready and prepared to proceed with the hearing in your case without his presence?
A. Yes.

Q. Inasmuch as you are not presently represented by counsel, you are permitted to meet any evidence presented or adduced by the Government for the record, to cross-examine witnesses called by the Government and to make objections which will be entered on the record. Do you understand?
A. Yes.

Q. I show you form letter I-226, notifying you of the time and place of the hearing in your case, and ask you if you received the original of this letter?
A. Yes, I received it.

Q. A copy of the order dated October 5, 1950, and form letter I-226 dated January 7, 1952, are being introduced into evidence and marked Exhibits 1-R and 2-R, respectively. Do you understand?
A. Yes.

Q. I show you Form I-256, Application for Suspension of Deportation, executed January 4, 1951, and ask you if that is your signature appearing thereon?
A. Yes.

Q. Is all the information furnished by you in this application true and correct?
A. Yes.

Q. Are you still employed at the Seabrook Farms Company as a laborer?
A. Yes.

Q. Are you married or single?
A. Single.

Q. Have you ever been married?
A. No.

Q. Do you have any close family ties in the United States?
A. No.

Q. Your application for suspension of deportation, dated January 4, 1951, is being accepted in evidence and marked Exhibit 3. Do you understand?
A. Yes.

Q. I also show you affidavit signed by ZENSUKE SHIROMA, at Bridgeton, N. J., January 4, 1951, attesting to your good moral character; affidavit signed by YASUJIRO SATO, at Bridgeton, N. J., January 4, 1951; letter signed by N. ROBERT WOODWARD, Chief of Police, Seabrook Farms, Seabrook, N. J., dated April 26, 1950, which indicates that you are known to be of excellent character and have no criminal record; and affidavit signed by HAROLD S. FISTERE, Personnel Director of Seabrook Farms Company, May 4, 1950, showing that you have been employed there since August 21, 1946, and that you are a person of good moral character, and ask you if you submitted these in connection with your application for suspension of deportation?
A. Yes.

Q. These papers and documents are being accepted in evidence and marked Exhibits 4-R, 5-R, 6-R and 7-R, respectively. Do you understand?
A. Yes.

Q. I now show you report of investigation dated October 17, 1951, conducted by an officer of this Service in your case, and ask you if you have any comment to make regarding it?
A. No.

Q. This report is being introduced into evidence and marked Exhibit 8-R. Do you have any objection?
A. No.

Q. I now show you and introduce in evidence as Exhibit 9-R a report from the Identification Division of the Federal Bureau of Investigation, dated January 17, 1951, which indicates that you have no criminal record. Do you have any objection?
A. No.

Q. Is your father still living in Peru?
A. Yes.

Q. Where is your mother living at the present time?
A. She is still living in Japan.

Q. Do you have a sister who now lives in Brazil?
A. Yes, she is in Brazil. She is married.

Q. You are also advised that you may, if you so desire, apply for the privilege of leaving the United States voluntarily, at your own expense, in lieu of deportation, to any country of your choice. In order to establish your eligibility for this relief, you must prove good moral character for the past five years and an ability to leave the United States promptly. Do you also wish to be considered for this privilege in the event that you should not be granted suspension of deportation?
A. In case the suspension of deportation don't go through and if the immigration would arrange a passport, I would like to pay my own way to whichever country I am sent to.

Q. How soon would you be able and willing to leave the United States voluntarily in lieu of deportation?
A. I have enough money right now to pay my way to Peru in case I have to leave the country. If I have to leave, I can leave any time to Peru because I think I have enough money.

Q. In the event Peru would not accept you, would you then be willing to pay your own way back to Japan, the country of your birth, rather than be deported?
A. I would not like to go to Japan in any event because I may not be able to make a living there.

Q. Of what do your present assets in the United States consist?
A. I have about $2,000.00 in the bank, more or less, that's all.

Q. Do you believe in Communism?
A. No, I do not.

Q. Are you now or have you ever been a member of or affiliated any organization which believes in or advocates the overthrow of the United States Government by force or violence?
A. No.

Q. Would you take up arms in defense of this country if called upon to do so?
A. Yes, willingly.

Q. If you are found to be subject to deportation and ordered deported, what country do you wish to specify as the country to which you shall be deported?
A. The country where I came from, Peru.

Q. The record shows that, at the time of your hearing at Santa Fe Internment Camp, April 8, 1946, you were offered an opportunity to depart voluntarily in lieu of deportation but you refused to apply for this privilege. Were you

ever offered this opportunity on any other occasion?
A. I don't remember any such offer since that time.

Q. What have you to say in your own behalf as to why you should not be deported?
A. I have been here for 7 years in America, got used to American ways and began to like it very much. I have been steadily employed and make a good living. I have never been arrested.

Q. Do you have any additional evidence, including witnesses, you wish to present in support of your application for relief from deportation?
A. I intend to get married here and settle down.

Q. Are you now engaged to marry someone in this country?
A. No, I haven't gone that far yet.

Q. You are informed that you will be furnished with a copy of my summary of the evidence, findings of fact, conclusions of law and order, and will be given a reasonable period of time within which to take exception thereto, if you so desire. Do you understand?
A. Yes.

Q. Is it your desire that a copy of my opinion be furnished WAYNE M. COLLINS, Esq., in San Francisco?
A. Yes.

HEARING OFFICER:

The hearing is now closed.

- * - * - * - * -

CERTIFIED CORRECT TRANSCRIPT:

Mary T. Cody

Mary T. Cody
Stenographer

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

Willard S. Layton

Willard S. Layton
Hearing Officer

0400/19184

I N D E X

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

File: A-5 977 631 - Philadelphia (0400/19184)

In re: KAMACHO MIYASHIRO

IN DEPORTATION PROCEEDINGS

IN BEHALF OF RESPONDENT: Wayne M. Collins, Esq.
Mills Tower
220 Bush Street
San Francisco, Cal.

CHARGES:

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

Lodged: None.

APPLICATION: Suspension of Deportation and Voluntary Departure.

DETENTION STATUS: Released on conditional parole.

DISCUSSION: The record relates to a 43-year old male, a native and citizen of Japan, whose only entry into the United States occurred at the Port of San Francisco, Cal., on June 15, 1942, at which time he was brought to this country by the Army from South America for internment during World War II. Respondent had migrated from Japan to Peru in 1925, at which time he was admitted for permanent residence. At the time of his entry on June 15, 1943, he was not inspected and admitted to the United States for any purpose and was not in possession of an immigration visa or a passport or other official document in the nature thereof showing his origin and identity. No evidence was developed that the respondent comes within any of the exceptions to Section 3, of the Act of May 26, 1924, and therefore he must be considered to have been an immigrant at the time of his entry. No evidence was developed that the respondent comes within the exceptions stated in paragraph (c) of Section 13 of the Immigration Act of 1924. He is, therefore, deportable on the grounds stated in the warrant of arrest.

On October 5, 1950, the Board of Immigration Appeals ordered that the hearing in this case be reopened for the reception of such application for relief from deportation as may be made and for further appropriate proceedings in connection therewith. As ordered, the hearing was reopened on January 26, 1952, at which time the respondent applied for suspension of deportation and, in the alternative, voluntary departure in lieu of deportation. He is single and has no close family ties in the United States. His mother lives in Japan and his father in Peru. The record shows that the respondent was a legal resident of Peru from August 4, 1925, until he was brought to this country in 1943. He has been employed by the Seabrook Farms Company, Bridgeton, N. J., since August 21, 1946. His assets consist of $2,000.00 in cash. Records of employment, affidavits of

witnesses and a report of investigation show conclusively that the respondent has resided in the United States in excess of seven years and was so residing on July 1, 1948. They also show that he has been a person of good moral character for the past five years. A check of the local and federal records has failed to reveal an arrest or criminal record. He has technically established that he has met the residence requirements for suspension of deportation under Section 19(c)(2)(b) of the Immigration Act of 1917. In similar cases, it has been held that an alien who had been brought into the United States solely for reasons connected with the war was denied the discretionary relief of suspension of deportation as a matter of policy, Matter of W....., Decision 225, decided by the Board of Immigration Appeals May 31, 1950.

The respondent, in the event of deportation, desires to return to Peru, the country whence he came. He has no desire to return to Japan and there appears to be no assurance that Peru will accept him if granted voluntary departure in lieu of deportation. Therefore, the facts and circumstances in this case do not warrant the granting of any discretionary relief.

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 without inspection, at the Port of San Francisco, Cal., on June 15, 1943;

(3) That the respondent was brought into the United States by the Army from South America for internment during World War II;

(4) That the respondent was not in possession of a valid immigration visa;

(5) That the respondent did not present a passport or other official document in the nature of a passport showing his origin and identity at the time of his last entry;

(6) That the respondent is of the Japanese race.

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 the time of entry.

(3) That under Sections 13 and 14 of the Immigration Act of May 26, 1924, the respondent is 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.

DECISION: IT IS ORDERED that the alien's application for suspension of deportation and voluntary departure in lieu of deportation be denied.

IT IS FURTHER ORDERED that the alien be deported from the United States pursuant to law on the grounds stated in the warrant of arrest.

Willard S. Layton

Willard S. Layton
Hearing Officer

February 11, 1952

4 - 95-D
Rev. 3-1-51

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Lafayette Bldg., 5th & Chestnut Sts.,
Philadelphia 6, Penna.

REGISTERED MAIL
RETURN RECEIPT REQUESTED

File Exp. 0400-19184

Date February 12, 1952

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

Dear Sir:

Re: KAMACHO MIYASHIRO

Enclosed is a copy of decision of the Hearing Officer in the deportation proceeding pending in the case of the above-named person. Also enclosed is a copy of transcript of testimony adduced at the hearing, for which you are requested to execute and promptly return the attached receipt.

You are allowed **ten (10)** days (excluding Saturdays, Sundays and holidays) after receipt of this notice within which to submit to this office exceptions to the Hearing Officer's decision, and, if desired, supporting argument or brief, for consideration by the Commissioner of Immigration and Naturalization, or to file a written waiver of the right specified above. When replying, advise whether oral argument before the Commissioner in Washington, D. C., is desired.

This is not a final decision. The entire record will be forwarded promptly to the Commissioner by this office (1) upon receipt of exceptions, and supporting argument or brief (if any), or (2) upon expiration of the time allowed therefor, or (3) upon receipt of waiver from you of the right to file exceptions to the decision of the Hearing Officer.

Very truly yours,

Karl I. Zimmerman

Karl I. Zimmerman,
District Director.

Enclosure

February 26, 1952

District Director
Immigration and Naturalization Service
Lafayette Bldg., 5th & Chestnut Sts.
Philadelphia 6, Penna.

Dear Sir:

Re: Kamacho Miyashiro
File: 0400-19184

Enclosed find notice form 4-432 in the above entitled cause.

Due to illness and a transportation strike which reduced my office staff until settlement thereof, I have been unable to prepare the necessary brief in the matter. In consequence, I would be grateful if you would allow me an additional ten days' time within which to file my brief in the above cause.

Very truly yours,

February 26, 1952

District Director
Immigration and Naturalization Service
Lafayette Bldg., 5th & Chestnut Sts.
Philadelphia 6, Penna.

Dear Sir:

Re: Kamacho Miyashiro
File: 0400-19184

Enclosed find notice form 4-432 in the above entitled cause.

Due to illness and a transportation strike which reduced my office staff until settlement thereof, I have been unable to prepare the necessary brief in the matter. In consequence, I would be grateful if you would allow me an additional ten days' time within which to file my brief in the above cause.

Very truly yours,

BEFORE THE COMMISSIONER OF IMMIGRATION

In the Matter of KAMACHO MIYASHIRO	A 5977631 Phil. 0400/19184

EXCEPTIONS TO RECOMMENDATION

On January 11, 1952, the hearing Officer recommended that the alien Kamacho Miyashiro, a native of Japan and resident of Peru, be deported on the charges stated in the warrant of arrest. On February 12, 1952, the District Director, USI&NS, at Philadelphia sent a notice of that recommendation.

Because the Peruvian Government thus far has not granted the applicant authority to return to Peru, in which country he has his residence, his efforts to return there have not yet proved successful. In consequence, he did not depart from the United States. Of the causes and reasons connected with his failure to depart the Commissioner has actual knowledge and takes administrative notice.

We except and object to the finding and conclusion, unsupported by any evidence whatever, that the alien cannot meet the residence requirements for suspension of deportation under Title 8 USCA, Sec. 155(c).

We sumit that there is no evidence in the record that the alien was brought to this country for any legitimate war connected reason. We contend that the government is estopped to deny that his entry was lawful and likewise is estopped to assert that his presence in this country is unlawful.

We submit that the appellant was brought involuntarily to this country for political reasons only. Because he is, in fact, an involuntary refugee from Peru, he is entitled to asylum in

WAYNE M. COLLINS
ATTORNEY AT LAW
1701 MILLS TOWER
SAN FRANCISCO 4, CALIF.
GARFIELD 1-1218

this country. It is time that the government ceased using the Immigration authorities and the pretext of the immigration laws as an excuse to mask the cruel persecution of the applicant and like Peruvian-Japanese for what is nothing but the wrongdoing of the governments of Peru and the United States.

Our ambassador to Peru and our State Department still are trying to prevail upon the Peruvian authorities to re-admit the applicant and similarly situated members of the Peruvian-Japanese group here to Peru. So long as those negotiations are pending we suggest that no order of deportation should issue against him or them.

For the foregoing reasons we urge that the recommendation of the hearing examiner be disregarded and that the alien's application for suspension of deportation be granted.

Respectfully submitted.

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

Attorney for Applicant

March 3, 1952

District Director
Immigration and Naturalization
Service
Lafayette Building,
5th & Chestnut Sts.
Philadelphia, Pa.

Dear Sir:

Re: Kamacho Miyashiro
File No. A5977631: Phil. 0400/19184

Enclosed find original Exceptions To Recommendation in triplicate. No oral argument is desired before the Commissioner. It will suffice that the matter be submitted to the Commissioner on the written exceptions.

Very truly yours,

ADJ-303
(4-11-52)

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

File: A-5977631 - Philadelphia (0400/19184)

- 15
Appeal

In re: KAMACHO MIYASHIRO

MAY 16 1952

IN DEPORTATION PROCEEDINGS

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

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

Lodged: None

APPLICATION: Suspension of deportation and voluntary departure

DETENTION STATUS: Released on conditional parole

DISCUSSION: Upon consideration of the entire record, including the exceptions taken, the findings relating to deportability made by the officer conducting the hearing are hereby adopted.

The alien has established his eligibility for voluntary departure and that relief is the maximum which will be granted to him as a matter of administrative discretion. To insure compliance with the grant of this privilege, deportation will be directed to follow in the event the alien fails to avail himself promptly of the grant of voluntary departure.

ORDER: It is ordered that the alien be required to depart from the United States without expense to the Government, within such period of time (not less that 30 days) and under such conditions as the Officer in Charge of the District deems appropriate.

IT IS FURTHER ORDERED that if the alien fails to depart when and as required, the privilege of voluntary departure shall be withdrawn without further notice or proceedings and the alien deported from the United States, pursuant to law on the charge stated in the warrant.

ASSISTANT COMMISSIONER
ADJUDICATIONS DIVISION

4-371
8-5-47

U. S. DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Lafayette Building, 5th and Chestnut Streets
Philadelphia 6, Pennsylvania

Rec'd 5/26/52

REGISTERED MAIL
RETURN RECEIPT REQUESTED

May 20, 1952

In reply refer
to File No.

Exp. 0400-19184

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

Dear Sir ~~(or Madam)~~:

The attached is a copy of the decision and order of the Commissioner in ~~your case~~ the case of KAMACHO MIYASHIRO.

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 15 days (not including Saturdays, Sundays, and holidays) after receipt of this notice.

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

Very truly yours,

Karl I. Zimmerman

Karl I. Zimmerman
District Director

Enclosures

SMP/cc

C
O
P
Y

THE FOREIGN SERVICE

OF THE

UNITED STATES OF AMERICA

Address Official Communications to

American Embassy
Lima, May 29, 1952

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

Dear Mr. Collins:

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

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

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

Sincerely yours,

/s/ Harold H. Tittmann

BEFORE THE BOARD OF IMMIGRATION APPEALS

In the Matter of	)	
	)	
KAMACHO MIYASHIRO	)	A - 5977631
	)	
- - - - - - - - - - - - -	)	Phil. (0400/19184)

BRIEF FOR APPELLANT

On January 11, 1952, the hearing officer, William S. Layton, recommended that the alien Kamacho Miyashiro, a native of Japan and resident of Peru, be deported on the charges stated in the warrant of arrest. On May 16, 1952, the Assitant Commissioner, Adjudications Division, contrary to law and the evidence, declared the alien deportable but held him eligible for voluntary departure and ordered him granted voluntary departure to be effectuated by a date to be fixed by the District Director, USI&NS, at Philadelphia, and further ordered that if he failed to depart when and as required he was to be deported on the charges stated in the warrant of arrest.

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

WAYNE M. COLLINS
ATTORNEY AT LAW
1701 MILLS TOWER
SAN FRANCISCO 4, CALIF.
GARFIELD 1-1218

have abused. The original of said letter has been forwarded to the Commissioner of Immigration for examination.

The appellant was brought to this country and interned on June 15, 1943, under an asserted claim that he was subject to the provisions of the Alien Enemy Act. On August 16, 1946, he was released from the Provisions of the Alien Enemy Act and his detention under authority of the Act thereupon ceased. Of these facts the Commissioner, this Board and the Attorney General have actual knowledge and take executive notice.

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

The seven (7) year period of residence required by Title 8 USCA, Sec. 155 (c) for suspension of deportation is satisfied by the elapse of time from June 15, 1943, when applicant arrived here or is, at least, partially satisfied by the elapse of time from August 16, 1946, when he was released from internment and from any claim of being subject to the provisions of the Alien Enemy Act.

We submit that there is no evidence in the record that the alien was brought to this country for any legitimate war connected reason. We contend that the government is estopped to deny that his entry was lawful and likewise is estopped to assert that his presence in this country is unlawful. It is nonsense for the government to assert that he did not present an unexpired passport or other travel document at the time of entry and that he was not in possession of a valid immigration visa. The secret orders of the Peruvian government which authorized this cruel uprooting of the appellant and similarly situated Peruvian-Japanese constitute a blanket visa to the appellant and those other Peruvian-Japanese who forcibly were brought to this country. The concealed orders

WAYNE M. COLLINS
ATTORNEY AT LAW
1701 MILLS TOWER
SAN FRANCISCO 4, CALIF.
GARFIELD 1-1218

of the U.S. Government, under which he and they were banished from Peru and transported to the U.S., constitute blanket admission credentials.

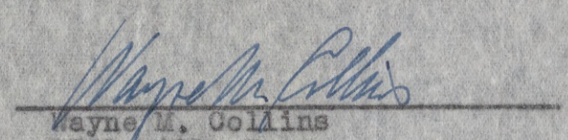
We submit that the appellant was brought involuntarily to this country for political reasons only. Because he is, in fact, an involuntary refugee from Peru, he is entitled to asylum in this country.

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

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

June 5, 1952.

Respectfully submitted,



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

Attorney for Appellant

WAYNE M. COLLINS
ATTORNEY AT LAW
1701 MILLS TOWER
SAN FRANCISCO 4, CALIF.
GARFIELD 1-1218

June 5, 1952

District Director
U.S. Immigration & Naturalization Service
Lafayette Building, 5th & Chestnut Sts.
Philadelphia 6, Pennsylvania

Dear Sir:

In re: Kamacho Miyashiro
File No. A-5,977,631 (0400-19184)

Enclosed find duplicate original Notices of Appeal and supporting Brief in the above entitled matter.

An original Notice and like Brief have been forwarded this date to the Board of Immigration Appeals.

Very truly yours,

Encs.

June 5, 1952

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

Gentlemen:

In re: Kamacho Miyashiro
File No. A-5,977,631 (0400-19184)

Enclosed find original Notice of Appeal and supporting Brief for appellant in the above entitled matter.

Duplicate original copies of said Notice and Brief have been forwarded to the District Director, U.S. Immigration and Naturalization Service at Philadelphia.

Very truly yours,

Encs.

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

June 25, 1952

Mr. Kamacho Miyashiro
Seabrook Farms,
Bridgeton, N.J.

Dear Mr. Miyashiro:

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

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

Very truly yours,

Encs.

JUL 6 - 1953

A-5977631 - Philadelphia (0400/19184)

KAMACHO MIYASHIRO

IN DEPORTATION PROCEEDINGS

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

CHARGES:

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

Lodged: None

APPLICATION: Suspension of deportation - seven years residence

DETENTION STATUS: Released on conditional parole

DISCUSSION AS TO DEPORTABILITY: Respondent is 45 years of age, male, a native and citizen of Japan, of the Japanese race. His only entry into the United States occurred at San Francisco, Calif., on June 15, 1942, at which time he was brought to this country from Peru, with a group of other persons similarly situated, by the United States Army for internment during World War II.

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

DISCUSSION AS TO ELIGIBILITY FOR SUSPENSION OF DEPORTATION: Respondent has applied for the privilege of suspension of deportation on the ground that he has been in the United States for seven years and was resident in the United States on July 1, 1948. He has been found technically eligible for suspension on this ground. Respondent is single and has no close family ties in the United States. His mother lives in Japan, and his father lives in Peru. He migrated from Japan to Peru in 1925 and lived in that country until he was brought to the United States.

After he was permitted to leave the internment camps in which he was detained, respondent worked at the Seabrook Farms Company, Bridgeton, New Jersey. At the time of his hearing in 1952 he testified that he had $2000 in cash. The Hearing Officer found that respondent had been a person of good moral character for the past five years, and that he had no arrest or criminal record.

It was long the policy of this Department to deny suspension of deportation to aliens brought into the United States solely for reasons connected with the war. Many of these persons, after a period of internment, were permitted to depart from the detention centers, and proceedings against them as alien enemies were terminated after favorable findings were made by the Alien Enemy Division of the Department of Justice. They were permitted to obtain employment, and they lived and worked in the United States, subject to the usual restrictions on parolees. After the termination of World War II some of these persons desired to remain in the United States and applied for suspension of deportation. This relief was denied them as a matter of policy. However, in Matter of W, Int. Dec. 225 (BIA, May 31, 1950, A. G. May 6, 1952) the Acting Attorney General reviewed the policy and concluded that, in that case at least, deportation of the subject alien would bring about undue hardship. Accordingly, he reversed this Board and ordered the grant of suspension of deportation to E. W., the alien involved in that proceeding. On the authority of that case it has become possible for this Board now to grant suspension of deportation to the Peruvian Japanese in the group of cases now before us. We are informed that the Government of Peru has continued to decline to permit respondent and other persons similarly situated to reenter that country. They cannot remain in the United States permanently as illegally resident aliens. Having left Japan many years ago, none of them desires to return to that country.

The most equitable solution to this problem within the power of this Government is to permit respondent to remain in the United States by granting him suspension of deportation.

It is our opinion that because respondent has been in the United States for seven years and was residing in this country on July 1, 1948, and because he has an otherwise good record, and because he is unable to

return to the country from whence he was brought for internment, respondent should be granted suspension of deportation.

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

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

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

Chairman

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

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

A-5977631
Miyashiro

Rec'd 7/10/53

July 7, 1953

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

Reference is made to your interest in the above case.

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

Sincerely yours,

Thos. G. Finucane

Thos. G. Finucane
Chairman

July 13, 1953

Mr. Kamacho Miyashiro
Seabrook Farms
Bridgeton, New Jersey

Dear Mr. Miyashiro:

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

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

Very truly yours,

4-58-A
5-29-51

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Lafayette Building, 5th & Chestnut Streets
Philadelphia 6, Pa.

July 30, 1953

File No. A-5 977 631

Mr. Kamacho Miyashiro,
Dormitory 2, Room 96,
Seabrook Farms,
Bridgeton, N. J.

Dear Sir:

An order was ~~There is enclosed for your information a copy of the order~~ entered in your case on July 15, 1953 suspending your deportation. Your case will be referred to Congress under the provisions of Section 19(c) of the Immigration Act of 1917, as amended, and you will be notified of further developments in due course.

This will serve also as notice that the parole agreement under which you were released from custody is terminated as of this date and it will no longer be necessary for you to make reports to this office. However, it will still be necessary for you to advise promptly concerning any change of address which may occur.

Very truly yours,

Karl I. Zimmerman

Karl I. Zimmerman
District Director

Encl.

CC: Wayne M. Collins, Esq.
Mills Tower,
220 Bush St.,
San Francisco, Cal.

August 12, 1953

Mr. Kamacho Miyashiro
Dormitory 2, Room 96
Seabrook Farms,
Bridgeton, New Jersey

Dear Mr. Miyashiro:

The Attorney General's agent has approved your application for suspension of deportation. In consequence, if Congress likewise approves the suspension you will be given permanent residence status in this country.

The order also terminated the parole agreement in your case and it will no longer be necessary for you to make parole reports to the Immigration Service at Philadelphia. However, you must still report any change of address promptly and make the annual alien report in January.

In due course of time the Immigration Service will inform you whether or not Congress grants your suspension.

Very truly yours,

4 - 155
6-5-50

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Lafayette Building, Fifth & Chestnut Streets
Philadelphia 6, Pennsylvania

May 19, 1954

ID A-5 977 631

Mr. Kamacho Miyashiro
Dormitory 2, Room 96
Seabrook Farms
Bridgeton, N.J.

Dear Sir ~~(or Madam)~~

Referring to your application for suspension of deporation, you are informed that your application may now be granted and your entry into the United States legalized provided you pay the fee of $18.00.

You are requested to forward immediately to the District Director, Immigration and Naturalization Service, Lafayette Building, 5th and Chestnut Streets, Philadelphia 6, Pennsylvania, a remittance in the sum of $18.00 in the form of a United States Postal Money Order or Note or American Express Money Order made payable to the "Treasurer, United States, Philadelphia, Pa." Do not send cash.

Very truly yours,

Karl I. Zimmerman

Karl I. Zimmerman
District Director

CC: Wayne M. Collins, Esquire
Mills Tower, 220 Bush St.,
San Francisco, Calif.

May 24, 1954

File Peruvian - Japanese

Mr. Kamacho Miyashiro
Dormitory 2, Room 96
Seabrook Farms
Bridgeton, N. J.

Dear Mr. Miyashiro:

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

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

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

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

Very truly yours,

WAYNE M. COLLINS
Attorney at Law
Mills Tower, 220 Bush Street
San Francisco 4, California
GArfield 1-1218

July 30, 1954

Mr. Kamacho Miyashiro
Dormitory 2, Room 96
Deabrook Farm
Bridgeton, New Jersey

Dear Mr. Miyashiro:

You are now eligible to apply for your naturalization and I suggest that you go to the Naturalization Division of the U.S. Immigration and Naturalization Service at Lafayette Building, Fifth & Chestnut St., Philadelphia, and make your application.

Very truly yours,

7/22/54 Imkagawa reports he got his 18a