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NAKAGAWA, KAZUO

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

Kazuo Nakagawa
Seabrook Farms
Bridgeton, New Jersey

Exp.
Date March 11, 1952

File No. A-6,096,818

Dear Sir:

Pursuant to warrant of arrest served on you on Mar. 30, 1946 you are advised to appear at 1:00 PM., on March 24, 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 New Orleans, Louisiana on July 2, 1944, 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 Passport (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 4, 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 4, California

Karl I. Zimmerman
Karl I. Zimmerman
District Director

File

March 18, 1952

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

Dear Sir:

Re: Seikei Arasaki - 0400-19467
Jitsuo and Takeno Dodohara & children,
0400-19470 and 1400-19470
Kunikichi and Hisako Matsuda and children,
0400-19476, 0400-42051, 0400-42052,
0400-42053 and 0400-42054.
Yoshio Nakagawa - A-5,967,437
Kazuo Nakagawa - A-6,096,818

I wish to thank you for the notices of hearings in the above-mentioned Peruvian-Japanese cases. It will not be necessary for me to be present at the said hearings. However, I would be grateful if you would forward to me the recommendations that are made in each of the above cases when they are made.

Very truly yours,

REOPENED WARRANT HEARING:

A 6 096 818

Date:	March 24, 1952
Place:	Philadelphia, Pa.
Hearing Officer:	Herman W. Williams
Stenographer:	Mildred Herscher
Interpreter:	Fukuji Sasaki 833 E. Parsonage Rd. Seabrook, New Jersey
Respondent:	KAZUO WAKAGAWA

HEARING OFFICER TO RESPONDENT:

- Q. What is your name?
A. Julio Caesar Kazuo Nakagawa.
- Q. In Japanese under what name are you known?
A. Kazuo Nakagawa.
- Q. Do you speak English sufficiently to proceed with this hearing without the services of an interpreter?
A. Yes.
- Q. You are advised that if, at any time during this hearing, you do not understand the question, so notify me, and efforts will then be made through the interpreter, who is sitting here, to talk to you in Japanese so that you can understand the question. Do you understand?
A. Yes.

HEARING OFFICER TO INTERPRETER:

- Q. Will you please identify yourself for the record?
A. Fukuji Sasaki, 833 East 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 in this proceeding?
A. Yes.

HEARING OFFICER TO RESPONDENT:

- Q. Please stand and raise your right hand. (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.

- Q. The file indicates that Wayne M. Collins of San Francisco, California, has filed an appearance as your representative in this case, and I ask if he is representing you?
- A. Yes.
- Q. Is Mr. Collins present here today to act at this hearing?
- A. No.
- Q. Where your representative is not present, are you ready and prepared to proceed with this hearing without him being present?
- A. Yes.
- Q. Are you the same person who was accorded a hearing in deportation proceedings at Crystal City, Texas, on April 1, 1946, at which time, due to your then being only twelve years of age, the required testimony was secured through your father?
- A. Yes.
- Q. How old are you at the present time?
- A. I will be 19 next month.
- Q. You are advised that in an order dated June 1, 1950, the Board of Immigration Appeals ordered your case reopened for the purpose of affording you opportunity to apply for such relief from deportation as you may be eligible for and for such further appropriate proceedings as deemed necessary. Do you understand?
- A. Yes.
- Q. Following your original hearing on April 1, 1946, the Commissioner, in an order dated April 18, 1946, ordered that you be deported to Japan at Government expense on the charges stated in the warrant of arrest and further ordered that you be permitted to depart from the United States to any country of your choice except contiguous territory at any time prior to being called for deportation by the Government, and this order was approved by the Board of Immigration Appeals on April 25, 1946, which ordered the execution of the warrant of deportation be stayed for ninety days without prejudice to an application for voluntary departure if you could secure permission to enter some country other than Japan. Do you recall such orders?
- A. Yes.
- Q. In following such orders, to your knowledge, did you or your father, in your behalf, make any efforts for you to secure permission to enter some country other than Japan?
- A. No.
- Q. Do you know why?
- A. Yes.

Q. Why?

A. I don't know. My father handled that.

Q. Is your father presently under proceedings similar to these?

A. Yes. (Offers file A-5967437 relating to father of respondent)

Q. The record shows that you were born in Peru. Is that correct?

A. Yes.

Q. And are you a citizen of Peru?

A. Yes.

Q. Are you also considered under Japanese laws a citizen of Japan?

A. I don't know.

Q. How long have you resided in the United States?

A. Since July 2, 1944.

Q. Were you living in the United States on July 1, 1948?

A. Yes.

Q. You are advised that under Section 19(c) of the Immigration Act of 1917, as amended, you may apply at any time during this hearing for the privilege of suspension of deportation. In order to establish that you are eligible for suspension of deportation, you must show that you have been a person of good moral character for the preceding five years and that you are not ineligible to naturalization or, if ineligible, that such ineligibility is solely by reason of race. In addition, you must show (1) that you have resided continuously in the United States for seven years or more and were residing in the United States on July 1, 1948. Do you understand this privilege just explained to you?

A. Yes.

Q. Do you desire to make application for such privilege?

A. Yes.

Q. In conjunction with such privilege, you are further advised that, in the alternative, you may also apply for the privilege of voluntary departure in lieu of deportation. In order to establish your eligibility for voluntary departure in lieu of deportation, you must establish that you have been a person of good moral character for the preceding five years and that you have the ability whereby you can depart from the United States promptly at your own expense. Do you understand this additional privilege I have explained to you?

A. Yes.

Q. Do you desire to apply for this additional privilege of voluntary departure?

A. Yes.

- Q. I now show you letter from the Seabrook Farms Company, Bridgeton, New Jersey, and ask if this is a document you submitted to this Service?
- A. Yes.
- Q. This document as to your employment will be accepted as evidence in the case and made a part of the record of hearing, being identified as Exhibit R-1. Do you understand?
- A. Yes.
- Q. I now show you Form 4-401-A dated February 18, 1952, report of investigation, and ask you to read same and state what, if any, comment you have to make regarding it?
- A. No comment.
- Q. This report will be accepted as evidence in the case and made a part of the record of hearing, being identified as Exhibit R-2. Do you have any objection?
- A. No.
- Q. I now show you Form G-58 dated July 21, 1950, addressed to the Federal Bureau of Investigation, same bearing an endorsement of said Bureau of "Unable to locate fingerprints; name search negative," and ask you what, if any, comment you have to make regarding this document?
- A. No comment.
- Q. Do you have any objection to this document being placed in the record as an exhibit?
- A. No.
- Q. It will be accepted as evidence in the case and made a part of the record of hearing, being identified as Exhibit R-3. Do you understand?
- A. Yes.
- Q. In connection with your application for suspension of deportation and the alternative application for voluntary departure in lieu of deportation, do you have affidavits from two witnesses who have known you since you have been in the United States?
- A. No.
- Q. You are advised that it is necessary that such affidavits be presented, and accordingly, at the conclusion of this hearing, sufficient forms will be furnished you whereby you can have same executed, and they, when completed, should be submitted to this office, and when received and if showing nothing detrimental to you, with your consent and agreement, will be accepted as evidence in the case and made part of the record of hearing, being identified as Exhibit R-4, without the necessity of reopening the hearing. Do you understand the do you agree?
- A. Yes.

Q. Also, it is necessary that you receive from the local police authorities where you have resided for the past five years clearances showing whether or not you have ever been arrested by such police authorities. Same should be submitted to this office and when received, if showing nothing detrimental to you, will be accepted as evidence in the case and made part of the record of hearing, being identified as Exhibit R-5, if you so consent and agree, without the necessity of reopening the hearing. Do you understand?

A. Yes.

Q. Do you agree to such procedure?

A. Yes.

Q. Are you still employed by the Seabrook Farms?

A. Yes.

Q. Are you employed at the present time, or is that seasonal work?

A. Seasonal.

Q. When was the last time you worked?

A. November 1951.

Q. Is the season due to start again on your work?

A. Yes.

Q. While you were working, what income did you receive weekly?

A. \$1.00 an hour for a fifty-hour week.

Q. Other than your father, do you have any other close relatives in the United States?

A. No.

Q. What close relatives do you have in Peru?

A. A brother.

Q. Is your mother living?

A. No. She died in 1947 in Peru.

Q. If suspension is denied you and you are subsequently granted the privilege of voluntary departure in lieu of deportation, how much time would you require before you could effect your departure from the United States?

A. About one month.

Q. Do you have means whereby you can depart from the United States at your own expense?

A. No.

Q. What is your present financial condition?

A. I have no money at all.

- Q. To your knowledge, is your father in a position whereby he can assist you financially in leaving the United States?
- A. Yes.
- Q. To what country would you go if you were granted the privilege?
- A. Peru.
- Q. To your knowledge, would you be permitted to reenter Peru?
- A. Yes.
- Q. Did you receive any information that you could reenter Peru?
- A. No.
- Q. Where your father is under proceedings similar to these, is it your desire that wherever your father goes you accompany your father?
- A. Yes.
- Q. In the event you could not be permitted to return to Peru, are you willing to return to Japan or some other country that will admit you, other than to Canada or Mexico?
- A. Yes.
- Q. Your father is a citizen of Japan. Is that correct?
- A. Yes.
- Q. You and your father both are of Japanese race. Is that correct?
- A. Yes.
- Q. You are advised that in connection with your father's case, he has been informed that where he is a citizen of Japan and not a citizen of Peru, the Peruvian Government will not permit him to enter Peru. Do you understand?
- A. Yes.
- Q. Knowing this, do you still say that you desire to go wherever your father goes?
- A. No.
- Q. What do you wish to do?
- A. Stay in the United States working.
- Q. When were you apprehended in Peru?
- A. My mother made arrangements with the police there for me to be sent to this country to join my father in June 1944.
- Q. You arrived in this country July 2, 1944. Is that correct?
- A. Yes.

Q. How long did you remain in internment camps?

A. Until August 1946, when I was released.

Q. To your knowledge, while you were in the internment camps, were you, or were you, through your father, offered an opportunity to be repatriated with your father to Japan?

A. Yes.

Q. To your knowledge, did your father, in your behalf, accept such privilege?

A. No. He wanted us to go to Peru.

Q. Have you ever been a member of any Communist organization?

A. No.

Q. Have you ever been affiliated with any Communist organization?

A. No.

Q. If necessary, would you take up arms in defense of this country?

A. Yes.

Q. If you are found to be subject to deportation and you are ordered deported, to what country do you desire to be deported?

A. Peru.

Q. Do you have anything you wish to say for the record?

A. No.

Q. Do you have any additional evidence, including witnesses, you wish to present?

A. No.

Q. Have you understood everything that has taken place here today?

A. Yes.

HEARING OFFICER:

There being no further evidence to be presented, the case is being brought to a conclusion. As authorized under Part 151.5(d), Title 8, Code of Federal Regulations, I am authorized to state orally for the record a brief summary of the evidence, my findings of fact, conclusions of law, and decision, and same is stated as follows:

DISCUSSION OF THE EVIDENCE: The record shows the respondent is an alien, a native and citizen of Peru, of the Japanese race, 18 years old; that he last entered the United States on July 2, 1944, at New Orleans, La., having been brought to this country by the United States Military authorities for internment with his father; that he remained in such internment until August 1946; and that at the time of his entry, he did not have a

valid immigration visa and did not present an unexpired passport or other official document in the nature of a passport showing his origin and identity. As the respondent, at the time of entry, was not entitled to enter the United States as a nonimmigrant under any of the exemptions mentioned in Section 3 of the Immigration Act of 1924, he was an immigrant and, as such, required to present an immigration visa. From the foregoing, the charges in the warrant of arrest are sustained.

The record shows the respondent has not been mentioned in any country outside the country of his birth.

Respondent has selected Peru as the country to which he desires to be deported if he is found deportable and ordered deported.

At the hearing, the respondent applied orally for suspension of deportation as provided under Section 19(c) of the Immigration Act of 1917, as amended, on the ground that he has lived in the United States for a period in excess of seven years and was so residing on July 1, 1948. In the alternative, he has applied for the privilege of voluntary departure in lieu of deportation. The record shows the respondent is single and that he is employed by the Seabrook Farms Company, Bridgeton, New Jersey, and has been so employed since June 1, 1950. When working, he receives from this employment a salary at the rate of \$1.00 an hour for a fifty-hour week. The record shows that the respondent was voluntarily apprehended in Peru on June 15, 1944, by the Peruvian authorities for the purpose of being conveyed to the United States for internment with his father, who was then in internment in this country, and that he remained in such internment until August 16, 1946. As a matter of policy, aliens who have been brought into the United States solely for reasons connected with the war have had their applications for suspension of deportation denied, and where this respondent is within such class, he is one to whom discretionary relief of suspension of deportation ought not be granted (See Matter of W-, A-5908014, B. I. A. 5/31/51 (Int. Dec. 225)).

In connection with the alternative application for voluntary departure in lieu of deportation, for which the respondent has applied, the record shows that he has not been other than a person of good moral character for the preceding five years and that he is in a position whereby he can secure the necessary funds whereby he can depart from the United States promptly at his own expense. However, the record of the father (File A-5967437) shows that the respondent, through his father, was afforded the opportunity of being voluntarily repatriated to Japan with his father but such offer was rejected because repatriation was desired to Peru. Further, following the deportation hearing accorded April 1, 1946, in an order of the Commissioner and subsequently of the Board of Immigration Appeals, the respondent, with his father, was afforded the opportunity to depart from the United States to any country of his choice, other than contiguous territory and other than Japan, which

country would permit entry to same of the respondent and his father. Respondent has indicated that if he were granted the privilege of voluntary departure, he would depart to Peru. However, he has indicated a desire to go wherever his father goes, but having been informed that the Government of Peru has denied entry into that country of people of the Japanese race who are not Peruvian citizens, this being the case of his father, the respondent stated he desired to remain in the United States. From the situation in this case and the facts as presented, it appears that the respondent is one to whom the privilege of voluntary departure in lieu of deportation ought not be granted, as in the case of the father, the father was found to be a person who ought not be granted the privilege of voluntary departure in lieu of deportation.

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 Peru and of the Japanese race;
- (2) That the respondent last entered the United States at New Orleans, Louisiana, on July 2, 1944;
- (3) That the respondent was brought to the United States by the military authorities for internment with his father;
- (4) That the respondent was not in possession of an unexpired immigration visa at the time of his entry;
- (5) That the respondent, at the time of his entry, did not present a valid passport or other official document in the nature of a passport, showing his origin and identity.

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 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 Immigration Act of 1917, the respondent is subject to deportation on the ground that he entered in violation of the Passport Act of May 22, 1918, as amended, in that at the time of entry, he did not present an unexpired passport or other official document in the nature of a passport issued by the government of the country to which he owes allegiance or other travel documents showing his origin and identity, as required by executive order in effect at the time of entry.

DECISION: IT IS ORDERED that the application for suspension of deportation and the alternative application for voluntary departure in lieu of deportation be denied and that the alien be deported from the United States, pursuant to law, on the charges stated in the warrant of arrest.

HEARING OFFICER TO RESPONDENT:

- Q. You have heard my oral decision. You are now required to state for the record whether or not you take exceptions to my decision. If you do take exceptions, the entire file will be forwarded to the Commissioner of Immigration and Naturalization, Washington, D. C., for his consideration and final action. If you do not take exceptions, my decision becomes final. What do you wish to do?
- A. I want to take exceptions.
- Q. Where you have indicated that you desire to take exceptions to my decision, you are advised that where you are represented and your representative not being present here today, that your representative will be furnished with a transcript of this reopened hearing, which will include my oral decision as I have stated it, and he will be appropriately advised as to the taking of any exceptions to my decision and the period of time within which he is allowed to take such exceptions. Do you understand?
- A. Yes.

- HEARING CLOSED -

I certify the foregoing to be a true and correct transcript of the testimony taken by me in the above case.

Mildred Herscher

Mildred Herscher, Stenographer

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

Herman W. Williams

Herman W. Williams, Hearing Officer

I N D E X

EXHIBIT R-1: Employment letter from Seabrook Farms..... page R-4

EXHIBIT R-2: Report of investigation..... page R-4

EXHIBIT R-3: F. B. I. report..... page R-4

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

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

*Rec'd
5/5/52*

REGISTERED MAIL
RETURN RECEIPT REQUESTED

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

Exp.
File A-6,096,818
Date May 1, 1952

Dear Sir:

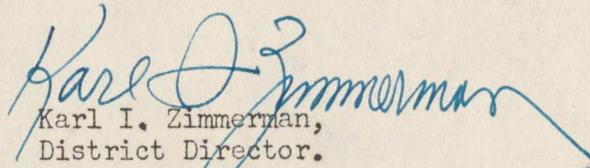
Re: KAZUO NAKAGAWA

Enclosed is a copy of transcript of testimony adduced at the hearing in deportation proceedings in the case of the above-named person in which is entered the decision of the Hearing Officer and oral exceptions taken thereto. You are requested to execute and promptly return the attached receipt for the transcript of testimony.

You are allowed **five (5)** days (excluding Saturdays, Sundays and holidays) after receipt of this notice within which to submit to this office written exceptions to the Hearing Officer's decision and, if desired, supporting argument or brief, for consideration by the Commissioner of Immigration and Naturalization. When replying, advise whether oral argument before the Commissioner in Washington, D. C., is desired.

This is not a final order. The entire record will be forwarded promptly to the Commissioner by this office (1) upon receipt of written exceptions and supporting argument or brief (if any), or (2) upon expiration of the time allowed therefor.

Very truly yours,


Karl I. Zimmerman,
District Director.

Enclosure

May 6, 1952

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

Dear Sir:

In re: Kazuo Nakagawa
A-6,096,818

Enclosed find Exceptions to Recommendation
in triplicate original in the above entitled
cause.

Very truly yours,

THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

C
O
P
Y

Address Official Communications to

American Embassy
Lima, May 29, 1952

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

Dear Mr. Collins:

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

Correspondence continued 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

ADJ-305
(4-28-52)

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

COPY FOR ATTORNEY
OR REPRESENTATIVE

File: A-6096818 - Philadelphia

No Appeal

JUN 13 1952

In re: KAZUO NAKAGAWA or JULIO CAESAR KAZUO NAKAGAWA

IN DEPORTATION PROCEEDINGS

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

CHARGES:

Warrant: Act of 1924 - No immigration visa
Act of 1918 - No passport

Lodged: None

APPLICATION: Suspension of deportation or voluntary departure

DETENTION STATUS: Released on own recognizance

DISCUSSION: Upon consideration of the entire record, including the exceptions taken, the findings of fact, conclusions of law and order of the Hearing Officer are hereby adopted.

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

IT IS FURTHER ORDERED that the case be certified to the Board of Immigration Appeals for final decision in accordance with 8 CFR 90.3(b).

ASSISTANT COMMISSIONER
ADJUDICATIONS DIVISION

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

June 24, 1952

Mr. Kazuo Nakagawa
Seabrook Farms,
Bridgeton, N.J.

Dear Mr. Nakagawa:

Enclosed find a copy of the "Exceptions to Recommendation" I have filed on your behalf with the District Director, USI&NS 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 your case and of your status in this country.

Very truly yours,

Encs.

U. S. DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

POST OFFICE BUILDING
CHICAGO 7, ILLINOIS

June 25, 1952

PLEASE REFER TO THIS FILE NUMBER

A6 096 818

#1

*Recd
6/30/52*

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

Dear Sir:

There is attached copy of the Commissioner's order in the case of Kazuo Nakagawa, which is self-explanatory.

Please note that this matter has been certified to the Board of Immigration Appeals in accordance with 8 CFR 90.3(b). Therefore, if you desire oral argument before the Board, or to submit a brief, you have fifteen days from the receipt of this letter within which to do so.

Your request for oral argument, or submission of a brief, should be addressed directly to the Board of Immigration Appeals, Department of Justice, Washington, D.C., forwarding a copy to this office for our file.

Yours very truly,

Marcus T. Neelly,
District Director,
Chicago District.

By: *D. J. Shipma*
D. J. Shipma, Acting Chief,
Investigation & Deportation Section.

July 1, 1952

District Director
U.S. Immigration and
Naturalization Service
Post Office Building
Chicago 7, Illinois

Dear Sir:

In re: Kazuo Nakagawa
File No. A-6-096-818

Enclosed find duplicate original Brief
for Respondent in the above entitled matter.

An original Brief has been forwarded
this date to the Board of Immigration
Appeals.

Very truly yours,

July 1, 1952

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

Gentlemen:

In re: Kazuo Nakagawa
File No. A-6-096-818

Enclosed find original Brief for Respondent
in the above entitled matter.

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

Very truly yours,

July 1, 1952

Mr. Kazuo Nakagawa
Seabrook Farms,
Bridgeton, N.J.

Dear Mr. Nakagawa:

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,

Enc.

BEFORE THE BOARD OF IMMIGRATION APPEALS

In the Matter of)
KAZUO NAKAGAWA) A 6-096-818
-----)

BRIEF FOR RESPONDENT

The hearing officer, Herman W. Williams, recommended that the alien Kazuo Nakagawa, a citizen and resident of Peru, be deported on the charges specified in the warrant of arrest. On June 13, 1952, the Assistant Commissioner, Adjudications Division, USI&NS, ordered him deported but certified the cause to this Board under 8 CFR 90.3(b).

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

The respondent's father was brought to this country and interned on July 2, 1944, under an asserted claim that he was subject to the provisions of the Alien Enemy Act. The respondent, his minor son, entered the U.S. on July 2, 1944, as a guest of our government to accompany him into exile. On August 16, 1946,

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

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

9 The seven (7) year period of residence required by Title 8
10 USCA, Sec. 155 (c) for suspension of deportation is satisfied by
11 the elapse of time from February 6, 1943, when he arrived here or
12 is, at least, partially satisfied by the elapse of time from
13 August 16, 1946, when he was released from internment and from
14 any claim of being subject to the provisions of the Alien Enemy
15 Act.

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

31 We submit that the respondent was brought involuntarily, as
32 a "guest" or so called "voluntary internee" to this country for

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

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

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

11 July 1, 1952.

12 Respectfully submitted,

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BEFORE THE COMMISSIONER OF IMMIGRATION

In the Matter of)
KAZUO NAKAGAWA) A-6,096,818
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EXCEPTIONS TO RECOMMENDATION

The hearing officer, Herman W. Williams, has recommended that the alien above-named, a resident of Peru, be deported on the charges stated in the warrant of arrest. On May 1, 1952, the District Director, USI&NS, at Philadelphia, sent counsel 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 and of which country he is a citizen, his efforts to return there have not yet proved successful. 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 their failure to depart from the U.S. the Commissioner has actual knowledge and takes administrative notice.

The applicant's father, was brought to this country and interned on July 2, 1944, under an asserted claim that he was subject to the provisions of the Alien Enemy Act. However, the applicant was not brought here for that purpose of under any such a claim. He was permitted to enter the U.S. as a guests of our government, although termed voluntary internees, simply to accompany his father. On August 6, 1946, the father was released from the provisions of the Alien Enemy Act and his detention under authority of that Act thereupon ceased. Of these facts the Commissioner, the Board of Immigration Appeals and the Attorney

1 General have actual knowledge and take executive notice.

2 We except and object to the finding and conclusion, unsup-
3 ported by any evidence whatever, that the alien cannot meet the
4 residence requirements for suspension of deportation under Title
5 8 USCA, Sec. 155 (c). We submit also that said finding and con-
6 clusion is contrary to law, to fact and to the evidence.

7 The seven (7) year period of residence required by Title 8
8 USCA, Sec. 155(c) for suspension of deportation is satisfied by
9 the elapse of time from July 2, 1944, when applicant arrived here.

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

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

29 Our ambassador to Peru, our State Department and applicant's
30 counsel still are trying to prevail upon the Peruvian authorities
31 to re-admit the applicant and similarly situated members of the
32 Peruvian-Japanese group here to Peru. So long as those negotiations

1 are pending we suggest that no order of deportation should issue
2 against him.

3 For the foregoing reasons we urge that the recommendation
4 of the hearing examiner be disregarded and that the alien's
5 application for suspension of deportation be granted and that the
6 recommendation that he be denied voluntary departure be withdrawn.

7 Respectfully submitted,

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13 Attorney for Applicant
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