



U.S. Department of Justice  
Immigration and Naturalization Service

*AR*

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



FILE:

Office: Miami

Date: FEB 7 2007

IN RE: Applicant:

**PUBLIC COPY**

APPLICATION: Application for Permanent Residence Pursuant to Section 1 of the Cuban Adjustment Act of November 2, 1966 (P.L. 89-732)

IN BEHALF OF APPLICANT: Self-represented

**identification data deleted to prevent clearly unwarranted invasion of personal privacy**

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, Acting Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Miami, Florida, who certified his decision to the Associate Commissioner, Examinations, for review. The district director's decision will be affirmed.

The applicant is a native and citizen of Cuba who filed this application for adjustment of status to that of a lawful permanent resident under section 1 of the Cuban Adjustment Act of November 2, 1966. This Act provides for the adjustment of status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959, and has been physically present in the United States for at least one year, to that of an alien lawfully admitted for permanent residence if the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence.

The district director determined that the applicant failed to submit all records relating to his arrests as had been requested. The district director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application.

The applicant has provided no statement or additional evidence on notice of certification.

Section 212(a)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(2), provides that aliens inadmissible and ineligible to receive visas and ineligible to be admitted to the United States include:

(A)(i) Any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of --

(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or....

The record reflects the following:

1. On July 7, 1987, in the Circuit Court of the Eleventh Judicial Circuit, Dade County, Florida, Case No. [REDACTED] the applicant was indicted for burglary of conveyance (automobile, with intent to commit theft). On December 9, 1987, the applicant was adjudged guilty of the crime and he was sentenced to imprisonment for a term of 18 months.

2. On November 5, 1997, in the Circuit Court of the Eleventh Judicial Circuit, Dade County, Florida, Case No. [REDACTED] the applicant was indicted for burglary of a structure with a dangerous weapon (knife, with intent to commit an offense therein). On December 9, 1987, the applicant was adjudged guilty of the crime

and he was sentenced to imprisonment for a term of 18 months, concurrent with sentence imposed in Case No. [REDACTED] (paragraph 1 above).

The Federal Bureau of Investigation (FBI) report, contained in the record of proceeding, reflects the following arrests relating to the applicant. The arrest reports and final court dispositions of these arrests, however, are not contained in the record of proceeding although the applicant was requested on February 16, 2000 to submit these documents.

3. Arrested on November 3, 1982 in Houston, Texas, and charged with theft.

4. Arrested on April 22, 1986 in Brownsville, Texas, and charged with unauthorized use of motor vehicle.

5. Arrested on April 27, 1991 in Dade County, Florida, and charged with (1) loitering and prowling, (2) burglary, and (3) grand larceny.

6. Arrested on September 18, 1991 in Dade County, Florida, and charged with burglary-business unoccupied.

7. Arrested on December 13, 1992 in Dade County, Florida, and charged with petty larceny.

8. Arrested on June 7, 1993 in Miami, Florida, and charged with burglary-unoccupied; possession of burglary tools; and damage property-criminal mischief.

9. Arrested on July 23, 1993 in Dade County, Florida, and charged with shoplifting.

10. Arrested on August 28, 1993 in Dade County, Florida, and charged with trespassing and petty larceny.

11. Arrested on September 6, 1993 in Miami, Florida, and charged with grand larceny.

Burglary (with intent to commit theft) is a crime involving moral turpitude (paragraph 1 above). See Matter of R-, 1 I&N Dec. 540 (BIA 1943); Matter of M-, 2 I&N Dec. 721 (BIA 1982); Matter of Leyva, 16 I&N Dec. 118 (BIA 1977); Matter of Frentescu, 18 I&N Dec. 244, 245 (BIA 1982). Likewise, burglary (of a structure or dwelling with intent to commit a crime therein while armed with a deadly weapon) is a crime involving moral turpitude (paragraph 2 above). Matter of Garcia-Garrocho, 19 I&N Dec. 423 (BIA 1986).

The applicant is, therefore, inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Act based on his

convictions of crimes involving moral turpitude. The applicant was offered an opportunity to submit evidence in opposition to the district director's findings. No additional evidence has been entered into the record of proceeding.

The applicant is ineligible for adjustment of status to permanent residence pursuant to section 1 of the Act of November 2, 1966. The decision of the district director to deny the application will be affirmed.

**ORDER:** The district director's decision is affirmed.