U.S. Department of Justice

igration and Naturalization Service

OFFICE OF ADMINISTRAW APPEALS
425 Eye Street N. W.
ULLB, 3rd Floor

Office: Newark

IN RE: Applicant:

Washington, D. C. 20536

Date: +#& -3 zoo2

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

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IN BEHALF OF APPLICANT: Self-represented prevent cluarij' uRW3 U2

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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)(l)(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 $1 10 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

~ JW* Robert P. Wiemann, Director

Administrative Appeals 0fficg// u

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DISCUSSION: The application was denied by the District Director, Newark, New Jersey, who certified her 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 was ineligible for adjustment of status based on his criminal convictions. She, therefore, denied the application.

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

Section 212 (a) (2) of 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

(11) a violation of (or a conspiracy or attempt to
violate) any law or regulation of a State, the United
States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802).

The record reflects the following:

1. On October 15, 1986, in the Superior Court of New Jersey, Essex County, the applicant was indicted for Count 1, murder; Count 2, third degree unlawful possession of a weapon; Count 3, third degree possession of a weapon for unlawful purpose; Count 4, third degree receiving stolen property. In a verdict by a jury on May 6, 1987, the applicant was found guilty of Count 2 and he was sentenced to imprisonment for a term of 5 years. A verdict of not

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guilty was entered as to Count 1; a mistrial was declared as to Count 3, and the court dismissed Count 4.

2. On January 22, 1986, in the Superior Court of New Jersey, Essex County, the applicant was indicted for Count 1, conspiracy; Count 2, possession of controlled dangerous substances; and Count 3, intent to distribute controlled dangerous substances. On June 17, 1986, the applicant entered a plea of guilty as to Count 2, he was convicted of Count 2, and placed on probation for a period of one year. Counts 1 and 3 were dismissed.

The applicant is inadmissible to the United States pursuant to section 212 (a) (2) (A) (i) (11) of the Act based on his conviction of possession of controlled dangerous substances. There is no waiver available to an alien found inadmissible under this section except for a single offense of simple possession of thirty grams or less of mari j~ana. The applicant does not qualify under this exception.

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.