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U.S. Department of Homeland Security  
Citizenship and Immigration Services

**AZ**

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ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass, 3/F  
425 I Street, N.W.  
Washington, D. C. 20536



FILE:  Office: Miami

Date: **DEC 3 - 2003**

IN RE: Applicant: 

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

ON BEHALF OF APPLICANT: Self-represented

**INSTRUCTIONS:**

This is the decision in your case. All documents have been returned to the office that 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 that 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 Citizenship and Immigration Services (CIS) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Acting District Director, Miami, Florida, who certified his decision to the Administrative Appeals Office for review. The acting 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 acting district director found the applicant inadmissible to the United States because he falls within the purview of sections 212(a)(2)(A)(i)(I), 212(a)(2)(A)(i)(II), 212(a)(2)(B), and 212(a)(2)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), § 1182(a)(2)(A)(i)(II), § 1182(a)(2)(B), and § 1182(a)(2)(C). The acting 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 Act 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

(II) 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).

(B) Any alien convicted of 2 or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement were 5 years or more is inadmissible.

(C) Any alien who the consular officer or immigration officer knows or has reason to believe is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assister, abettor, conspirator, or colluder with others in the illicit trafficking in any such controlled substance, is inadmissible.

In his decision, the acting district director listed the applicant's arrests and convictions from July 1980 to June 2002. That list will not be repeated here. The list, however, includes convictions of: (1) sale or delivery of cocaine and possession of cocaine (Case No. 87-22077-B) on February 16, 1988, the applicant was placed on probation for a period of 2 years with condition that he serves 75 days in the county jail; (2) aggravated assault with a deadly weapon (Case No. F01-003055) on March 23, 2001, sentenced to 4 years in prison for violating his probation; and (3) assault and aggravated stalking (Case No. F02-017453) on September 3, 2002, sentenced to 4 years in prison.

Aggravated assault with a deadly weapon (knife) is a crime involving moral turpitude. *Matter of Goodalle*, 12 I&N Dec. 106 (BIA 1967); *Matter of Baker*, 15 I&N Dec. 50 (BIA 1974); *Matter of Chavez-Calderon*, 20 I&N Dec. 744 (BIA 1993). Likewise, aggravated stalking is a crime involving moral turpitude. *Matter of Ajami*, 22 I&N Dec. 949 (BIA 1999).

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 is also inadmissible to the United States, pursuant to sections 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Act, based on his convictions of possession of cocaine and sale or delivery (trafficking) of cocaine. Additionally, the applicant is inadmissible to the United States, pursuant to section 212(a)(2)(B) of the Act, based on his convictions of 2 or more

offenses for which the aggregate sentences to confinement actually imposed were 5 years or more.

The applicant was offered an opportunity to submit evidence in opposition to the acting district director's findings of inadmissibility. 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 acting district director to deny the application will be affirmed.

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