

PUBLIC COPY

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

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

AA

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



FILE:

Office: Miami

Date: MAY 13 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 Bureau of Citizenship and Immigration Services (Bureau) 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.

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 section 212(a)(2)(A)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(II). 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, 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

(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).

The record reflects the following:

1. On May 11, 1998, in the Circuit Court of the Eleventh Judicial Circuit, Dade County, Florida, Case No. [REDACTED] the applicant was found guilty of fraudulently obtaining a controlled substance (arrest date March 30, 1998). Adjudication of guilt was

withheld, and he was sentenced to imprisonment for a term of one day credit for time served.

The record of proceeding contains the Federal Bureau of Investigation report reflecting numerous arrests and/or convictions in Florida relating to the applicant. However, the arrest reports and the court's final dispositions of the following arrests are not contained in the record:

2. Arrested on March 24, 1980 and charged with passing forged prescription.

3. Arrested on July 19, 1980 and charged with passing forged prescription.

4. Arrested on August 20, 1980 and charged with (1) burglary, and (2) larceny.

5. Arrested on November 2, 1981 and charged with grand larceny.

6. Arrested on September 29, 1995 and charged with (1) passing forged instrument, and (2) obtaining a controlled substance by fraud (Case No. [REDACTED]). The record reflects that the applicant was convicted of count (2) on November 6, 1995.

7. Arrested on October 31, 1995 and charged with larceny-theft to deprive (Case No. [REDACTED]). The record reflects that the applicant was convicted of this crime on December 18, 1995.

8. Arrested on December 25, 1995 and charged with (1) possession of cocaine, and (2) possession of narcotic equipment (Case No. [REDACTED]). The record reflects that the applicant was convicted of count (1) on February 27, 1996.

9. Arrested on February 12, 1996 and charged with possession of cocaine.

10. Arrested on January 31, 1997 and charged with (1) possession of cocaine, (2) possession of narcotic equipment, and (3) possession of stolen property.

11. Arrested on September 1, 1997 and charged with petit larceny. The record reflects that the applicant was convicted of this crime on September 2, 1997.

12. Arrested on March 25, 1998 and charged with petty larceny.



13. Arrested on April 19, 1998 and charged with grand larceny (Case No. F98012971).

14. Arrested on April 30, 1998 and charged with possession of cocaine.

15. Arrested on June 20, 1998 and charged with petty larceny (Case No. [REDACTED]).

16. Arrested on August 7, 1998 and charged with obtaining controlled substance by fraud (Case No. [REDACTED]). The record reflects that on October 26, 1998, in the 17th Circuit Court, Ft. Lauderdale, the applicant was convicted of the crime.

17. Arrested on September 29, 1998 and charged with (1) possession of a controlled substance (heroin), (2) obtaining medicinal drugs by fraud, and (3) burglary of an occupied structure (Case No. [REDACTED]).

18. Arrested on June 3, 2000 and charged with (1) passing forged instrument, and (2) obtaining medicinal drugs by fraud.

19. Arrested on August 21, 2000 and charged with (1) passing or uttering forged instrument, and (2) obtaining controlled substance by fraud (Case No. [REDACTED]). The record reflects that on January 18, 2001, the applicant was convicted of count (2).

20. Arrested on September 10, 2000 and charged with petit larceny.

21. Arrested on May 23, 2001 and charged with (1) forgery, and (2) obtaining medicinal drugs by fraud (Case No. [REDACTED]).

22. Arrested on June 29, 2001 and charged with forgery.

23. Arrested on March 12, 2002 and charged with (1) forgery, (2) possession of a controlled substance, (3) driving while license suspended, habitual, and (4) attaching registration license plate not assigned.

24. Arrested on October 17, 2002 and charged with (1) bench warrant (BW) driving while license suspended, (2) BW driving while license suspended, (3) BW driving while license suspended, (4) flight-escape, (5) forgery, (6) resisting an officer with violence to his person, (7) unlawful driving as a habitual traffic offender, (8) resisting law enforcement officer.

The applicant is inadmissible to the United States, pursuant to section 212(a)(2)(A)(i)(II) of the Act, based on his conviction of fraudulently obtaining a controlled substance (paragraph 1 above).

Additionally, any crime involving fraud is a crime involving moral turpitude. Burr v. INS, 350 F.2d 87, 91 (9th Cir. 1965). The applicant is also inadmissible to the United States, pursuant to section 212(a)(2)(A)(i)(I) of the Act, based on his conviction of a crime involving moral turpitude.

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.

Accordingly, 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.