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U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

[Handwritten signature]

[Redacted]

FILE:

[Redacted]

Office: BALTIMORE, MARYLAND

Date: MAY 26 2004

IN RE:

Applicant:

[Redacted]

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 of the Administrative Appeals Office 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.

[Handwritten signature]

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Baltimore, Maryland, who certified his decision to the Administrative Appeals Office (AAO) 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 (CAA) of November 2, 1966. The CAA provides, in part:

[T]he 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, may be adjusted by the Attorney General, (now the Secretary of Homeland Security, (Secretary)), in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien makes an application for such adjustment, and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence.

The district director found the applicant inadmissible to the United States because he falls within the purview of sections 212(a)(2)(A)(i)(II), 212(a)(2)(C) and 212(a)(6)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(II), (a)(2)(C) and (a)(6)(C). The district director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application.

On notice of certification, the applicant was offered an opportunity to submit evidence in opposition to the district director's findings. The applicant submits a letter requesting that the application be approved because he made a mistake 19 years ago and he needs his green card in order to be able to work.

Section 212(a)(2) of the Act states in pertinent part, that:

(A)(i) [A]ny 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).

.....
(C) Controlled substance traffickers.-

any aliens who the consular officer of the Attorney General knows or has reasons to believe-

(i) is or has been an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or is or has been a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or.....is inadmissible.

The record reflects and the applicant admits that in 1985 he was arrested for Possession of Marijuana for which he served eight days in prison and completed two years of probation. The record further reflects that on March 18, 1985, the applicant was arrested by Metro-Dade Police Department, Florida and charged with one count of Marijuana possession-Felony and on count of Marijuana Possession-Misdemeanor". Furthermore the applicant's criminal record reveals that he was arrested twice in Baltimore, Maryland. The first time on n September 29, 1983, for "Possession Marijuana" and "Possession Paraphernalia to Inhale." The second time, on March 26, 1985, he was convicted of a charge involving LSD, barbituates and cocaine and was sentenced to two years probation.

In addition the district director found the applicant inadmissible under section 2121(a)(6)(C) of the Act because he willfully misrepresented a material fact during his interview for adjustment of status. The applicant failed to disclose his entire criminal history to the interviewing officer.

The applicant is inadmissible to the United States, pursuant to section 212(a)(2)(A)(i)(II) of the Act. There is no waiver available to an alien found inadmissible under section 212(a)(2)(A)(i)(II) of the Act, except for a single offense of simple possession of thirty grams or less of marijuana. 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 CAA 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.