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U.S. Citizenship
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FILE: [REDACTED] Office: MIAMI, FLORIDA Date: NOV 15 2005

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 PETITIONER: 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Miami, Florida, 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 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 District Director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application accordingly. *See District Director's Decision* dated April 16, 2005.

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 copy of a decision from the Circuit/County Court, in and for Broward County, Florida, which shows that he pled nolo contendere to the offense of possession of cannabis and he was sentenced to pay a fine. In addition, the applicant submits a letter in which he states that he paid his debt to society by paying the fine imposed on him. Furthermore the applicant states that he has led a productive life since that conviction, he works full time and has a great familial support system. Finally he requests that his application for United States residency be approved.

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-

.....

(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).

In his decision, the District Director states that on October 9, 1995, the applicant pled nolo contendere to the offense of possession of cannabis. The District Director did not mention any other convictions.

A review of the record of proceedings reveals that the applicant has more than one conviction.

On June 6, 2000, in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, the applicant was convicted of the offense of domestic violence and he was placed on probation.

On June 13, 2001, in the County Court of Lake County, Florida, the applicant was convicted of the offenses of possession of marijuana, less than 20 grams, and possession of drug paraphernalia. The applicant was sentenced to six months probation.

In *Minh Duc Luu-Le v. Immigration and Naturalization Service* (No. [REDACTED] August 3, 2000), the Ninth Circuit Court of Appeals upheld a decision of the Board of Immigration Appeals (BIA) affirming an Immigration Judge's determination that a conviction for possession of drug paraphernalia was a conviction for violation of a law relating to a controlled substance.

The applicant is inadmissible to the United States, pursuant to section 212(a)(2)(A)(i)(II) of the Act, based on his two convictions of possession marijuana and possession of drug paraphernalia. There is no waiver available to an alien found inadmissible under this section 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.