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U.S. Citizenship
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Services

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FILE: [Redacted] Office: MIAMI, FLORIDA Date: JUN 09 2006

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.

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

Robert P. Wiemann, Chief
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), for having been convicted of a violation of any law or regulation relating to a controlled substance, and not eligible for any waiver. The District Director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application. *See District Director's Decision* dated January 7, 2005.

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).

The record reflects that on December 18, 1988, in the United States District Court, Southern District of Florida, the applicant was convicted of the offense of possession with intent to distribute a quantity of cocaine. The applicant was sentenced to two years imprisonment.

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 statement in which he asserts that the interviewing officer was very rude, he was told that he wasted his time appearing at the interview and he was not allowed to submit documentation related to his case. The applicant further states that he was denied his right to become a permanent resident for no reason at all and requests another interview.

Even if the interviewing officer was rude, the fact remains that the applicant was convicted for possession with intent to distribute a quantity of cocaine and based on his conviction he is inadmissible to the United States,

pursuant to section 212(a)(2)(A)(i)(II) of the Act. On notice of certification he did not submit any documentation related to his conviction.

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.