



U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

HH



File: [Redacted]

Office: SAN ANTONIO, TEXAS

Date: MAR 12 2001

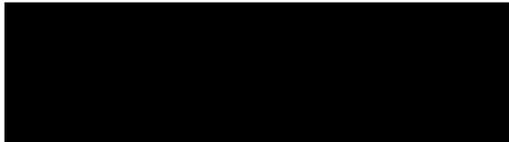
IN RE: Applicant:



Application:

Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act, 8 U.S.C. 1182(i)

IN BEHALF OF APPLICANT:



INSTRUCTIONS:

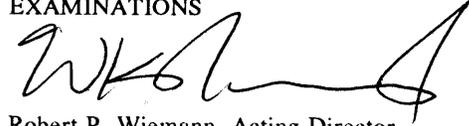
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

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 which 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 Service 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 which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS


Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, San Antonio, Texas, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected.

The applicant is a native and citizen of France who was found to be inadmissible to the United States under § 212(a)(2)(i)(I) of the Immigration and Nationality Act, (the Act), 8 U.S.C. 1182(a)(2)(i)(I), for having been convicted of a crime involving moral turpitude. In 1992, the applicant married a citizen of the United States. She seeks the above waiver in order to remain in the United States and reside with her spouse and step-children.

The district director found the applicant inadmissible to the United States on other grounds and concluded that approval of the instant application would serve no useful purpose. He then denied the application.

On appeal, counsel states that the district director erred in denying the application because the applicant's conviction for writing bad checks in 1986 occurred more than 12 years ago and was not a crime of violence or a drug-related crime. Counsel also asserts that the applicant has a valid marriage and is well thought of in her community.

The record contains the following information regarding the applicant:

1. On April 18, 1986 in the County Court at Law #2 in and for Bell County, Texas, the applicant was convicted of two charges of the offense of Issuance of a Bad Check. She was fined \$200.00, costs of \$62.50 and restitution for each charge.
2. On the same date and in the same court as above, an additional eleven charges against the applicant were dismissed because she pleaded guilty in companion case(s).
3. On September 11, 1986 in Bell County, Texas, a charge of Driving Without a License against the applicant was dismissed for insufficient evidence to obtain a conviction.
4. On September 21, 1988 in Bell County, Texas, the applicant was convicted of the offense of Failure to Maintain Financial Responsibility. She was sentenced to ten days imprisonment and fined \$100.00 plus court costs.
5. On July 24, 1991, a protective order was issued against the applicant by Marcelo

[REDACTED] and his daughter [REDACTED] The basis for the protective order was the disruption the applicant caused to the business of the [REDACTED] assaults on their persons and threats, including death threats, against them.

The record also reflects that the applicant was deported from the United States on November 14, 1988. Her last entry into the United States was without inspection in April 1990. Therefore, she is also inadmissible to the United States under § 212(A) of the Act.

Service instructions at O.I. 212.7 specify that when an alien requires both permission to reapply for admission and a waiver of grounds of inadmissibility, the Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212) will be adjudicated first.

The present record contains evidence that the applicant's application for permission to reapply was adjudicated simultaneously with her application for waiver of inadmissibility. Both applications were denied by the district director and appealed to the Associate Commissioner. The appeal of the application for permission to reapply will be dismissed under separate cover.

Service instructions also specify that if the Form I-212 application is denied, then the Application for Waiver of Grounds of Inadmissibility (Form I-601) should be rejected, and the fee refunded. Since the Form I-212 application was denied in this matter and the appeal dismissed, the appeal of the district director's decision denying the Form I-601 application will be rejected and the decision of the district director will be withdrawn as moot. The matter will be remanded to the district director to refund the fees for filing the Form I-601 application and the instant appeal.

ORDER: The appeal is rejected. The district director's decision is withdrawn as moot and the matter is remanded to him for a refund of the fees for filing the original application and appeal.