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U.S. Department of Homeland Security
20 Mass. Avenue, N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

H2

[Redacted]

FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER

Date: AUG 17 2007

IN RE: [Redacted]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(h) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1182(h)

ON BEHALF OF APPLICANT:

[Redacted]

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 waiver application was denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed, the previous decision of the director withdrawn and the waiver application declared moot.

The record reflects that the applicant is a native and citizen of Cuba who was found to be inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of a crime involving moral turpitude. The applicant seeks a waiver of inadmissibility in order to reside with his wife and child in the United States.

The director found that the applicant had failed to establish extreme hardship to a U.S. citizen spouse, parent son or daughter. The application was denied accordingly. *See Director's Decision*, dated June 7, 2006.

On appeal, counsel asserts that the applicant was not convicted of a crime involving moral turpitude. *Counsel's Brief*, undated.

The record indicates that on August 28, 1999 the applicant was arrested for alleged unlawful possession of marijuana. On March, 29, 2000 the applicant's case was entered as "stet" under Maryland law. The disposition also shows that the case is currently closed. No plea of guilty was entered and no sentence imposed.

The Maryland Code of Criminal Procedures, Rule 4-248, states in pertinent part, that:

- (a) Disposition by stet. On motion of the State's Attorney, the court may indefinitely postpone trial of a charge by marking the charge 'stet' on the docket....A steted charge may be rescheduled for trial at the request of either party within one year and thereafter only by order of court for good cause shown.
- (b) Effect of stet. When a charge is steted, the clerk shall take the action necessary to recall or revoke any outstanding warrant or detainer that could lead to the arrest or detention of the defendant because of the charge....The entry of a stet in criminal cases means that the State will not proceed against an accused on that indictment at that time.

Section 101(a)(48) of the Act states in pertinent part, that:

- (A) The term "conviction" means, with respect to an alien, a formal judgment of guilty of the alien entered by a court, or if adjudication has been withheld, where-
 - (i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and
 - (ii) the judge has ordered some form of punishment, penalty or restraint on the alien's liberty to be imposed.

At the present time, the applicant's charge has not been rescheduled for a trial and his court disposition shows his case as closed. As stated above, no plea of guilty was entered and no sentence was imposed. Therefore, as the record does not reflect that the applicant was convicted of a crime of moral turpitude, he is not inadmissible

to the United States. Accordingly, the appeal will be dismissed, the decision of the director withdrawn and the waiver application declared moot.

ORDER: The appeal is dismissed and the waiver application is declared moot.