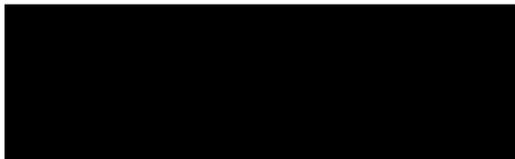


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U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536



FILE: 

Office: Havana

Date:

AUG 25 2003

IN RE: Applicant:



APPLICATION:

Application for Waiver of Grounds of Inadmissibility under
Section 212(a)(6)(E)(iii) of the Immigration and Nationality
Act, 8 U.S.C. § 1182(a)(6)(E)(iii)

ON BEHALF OF APPLICANT: Self-represented

PUBLIC COPY

INSTRUCTIONS:

This is the decision 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.

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 that 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 Bureau of Citizenship and Immigration Services (Bureau) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Officer in Charge, Havana, Cuba, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The applicant is a native and citizen of Cuba. The officer in charge indicates in the decision that the applicant was found to be inadmissible to the United States by a consular officer under section 212(a)(6)(E) of the Immigration and Nationality Act (the Act), 8 U.S.C § 1182(a)(6)(E), for having attempted to aid and abet her alien daughter to enter the United States in violation of law.

Documentation in support of that determination is not present in the record for review. The nearly illegible copy of the Form I-601 contains the notation "212(a)(6)(E)-Aided and abetted her daughter attempting to obtain a visa & enter US illegally."

The applicant married her spouse in March 1980 in Cuba, and he is now a lawful permanent resident. The applicant seeks a waiver of the ground of inadmissibility under section 212(a)(6)(E)(iii) of the Act, 8 U.S.C. § 1181(a)(6)(E)(iii), for humanitarian reasons, to travel to the United States in order to reside with her lawful permanent resident husband and her two lawful permanent resident children.

On appeal, the applicant's spouse states that his other two children were issued immigrant visas and are now in the United States with him. He states that the children are going through depression and great stress because they are separated from their mother. He requests that the applicant be granted a waiver so she can be reunited with the family.

Section 212(a)(6)(E) of the Act provides that:

(i) Any alien who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of the law is inadmissible.

(ii) Special Rule In The Case Of Family Reunification.- Clause (i) shall not apply in the case of alien who is an eligible immigrant...was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

(iii) Waiver authorized.-For provision authorizing waiver of clause (i), see subsection (d)(11).

Section 212(d)(11) of the Act provides that:

The Attorney General [now Secretary of Homeland Security], may, in his discretion for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) of subsection (a)(6)(E) in the case of any alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of removal, and who is otherwise admissible to the United States as a returning resident under section 211(b) and in the case of an alien seeking admission or adjustment of status as an immediate relative or immigrant under section 203(a) (other than paragraph (4) thereof), if the alien has encouraged, induced, assisted, abetted, or aided only an individual who at the time of the offense was the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

A waiver of the above ground of inadmissibility may be granted for humanitarian purposes, to assure family unity or when it is otherwise in the public interest. After reviewing the record, it is concluded that the waiver should be granted to assure family unity. Therefore, the favorable exercise of discretion in this matter is warranted, and the appeal will be sustained.

ORDER: The appeal is sustained. The officer in charge's decision is withdrawn, and the waiver application is approved.