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U.S. Department of Homeland Security
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Washington, DC 20536



U.S. Citizenship
and Immigration
Services



FILE:



Office: MIAMI, FLORIDA

Date:

APR 28 2004

IN RE:

Applicant:



APPLICATION: Application for Permanent Residence Pursuant to Section 202 of the Immigration Reform and Control Act of 1986 as it pertains to Cuban-Haitian Adjustment (P.L. 99-603)

PUBLIC COPY

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

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, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Miami, Florida. It is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Haiti who filed this application for adjustment of status to that of a lawful permanent resident under the Immigration Reform and Control Act of 1986, section 202 as it pertains to Cuban-Haitian Adjustment applicants.

Section 202 Cuban-Haitian Adjustment provides, in part:

(a) Adjustment of Status.--The status of any alien described in subsection (b) may be adjusted by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if--

(1) the alien applies for such adjustment within two years after the date of the enactment of this Act;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence. . . .

(b) Aliens Eligible for Adjustment of Status.--The benefits provided by subsection (a) shall apply to any alien--

(1) who has received an immigration designation as a Cuban/Haitian Entrant (Status Pending) as of the date of the enactment of this Act, or

(2) who is a national of Cuba or Haiti, who arrived in the United States before January 1, 1982, with respect to whom any record was established by the Immigration and Naturalization Service before January 1, 1982, and who (unless the alien filed an application for asylum with the Immigration and Naturalization Service before January 1, 1982) was not admitted to the United States as a nonimmigrant.

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. *See District Director's Decision* dated February 13, 2001.

On appeal, the applicant submits Form I-290B stating that he does not understand the exempt of criminal history and that he will submit his criminal reports within 30 days. No additional evidence has been entered into the record.

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 June 9, 1989, the applicant was convicted in the Circuit Court in and for Palm Beach County, Florida for the offense of Possession of Cocaine.

Additionally on or about September 25, 1990, the applicant was convicted in the County Court in and for Palm Beach County, Florida for the offense of Possession of Marijuana.

Although the applicant submitted documentation indicating that he had been arrested on ten different occasions he failed to submit court dispositions for all the arrests. The AAO finds the other documentation unnecessary as the applicant is clearly inadmissible based on the information in the record.

The applicant is inadmissible to the United States, pursuant to section 212(a)(2)(A)(i)(II) of the Act, based on his conviction for the offense of Possession of Cocaine. 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 202 of the Immigration Reform and Control Act of 1986, as it pertains to Cuban-Haitian nationals. The decision of the district director to deny the application will be affirmed.

ORDER: The district director's decision is affirmed.