U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

[redacted]

DATE: MAY 0 2 2011 Office: RALEIGH-DURHAM FIELD OFFICE FILE: [redacted]

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Raleigh-Durham, North Carolina, denied the application to adjust status and certified his decision to the Administrative Appeals Office (AAO) for review. The director's decision will be affirmed. The application remains denied.

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.

Pertinent Facts and Procedural History

The applicant first entered the United States on or about May 29, 1980 during the Mariel Boatlift and was paroled into the United States on April 27, 1980, at or near Miami, Florida. The applicant provided relevant court dispositions regarding a number of arrests. The record includes evidence that:

- On May 6, 1986, the applicant was convicted of possession of drugs and cocaine trafficking;
- On December 30, 1988, the applicant was convicted of grand theft and possession of cocaine;
- On January 4, 1989, the applicant was convicted of possession of cocaine;
- On December 26, 1991, the applicant was convicted of possession of cocaine; and
- On November 9, 1998, the applicant was arrested and charged with violation of an injunction against domestic violence, battery, grand theft, and robbery and entered a guilty plea on each of these counts and an order was issued withholding adjudication and special conditions.

The applicant filed the instant Form I-485, Application to Register Permanent Residence or Adjust Status, on April 21, 2010. On July 22, 2010, the applicant was interviewed by a United States Citizenship and Immigration Services (USCIS) officer and provided additional information to USCIS on September 26, 2010, as requested. On March 21, 2011, the director determined that the applicant was not eligible for adjustment of status because his criminal history made him inadmissible to the United States and that he did not meet the criteria to be eligible for a waiver. The director certified his decision to the AAO for review. The director informed the applicant that he had 30 days to supplement the record with any evidence that he

wished the AAO to consider. The applicant has not submitted additional evidence for consideration.

Applicable Law

Section 212(a)(2)(A) of the Immigration and Nationality Act (INA) states:

> (i) In general.-Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of-
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> * * *
>
> (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)), is inadmissible.

Analysis and Conclusion

The applicant's three convictions related to cocaine possession and one conviction related to cocaine trafficking makes him inadmissible under section 212(a)(2)(A)(i)(II) of the Act (controlled substance violation). There is no waiver of inadmissibility available to the applicant. Pursuant to section 291 of the Immigration and Nationality Act, 8 U.S.C. § 1361, the burden of proof is upon the applicant to establish that he is eligible for adjustment of status. The applicant has not met his burden. Accordingly, the AAO affirms the decision of the director to deny the applicant's application to adjust status pursuant to section 1 of the CAA.

ORDER: The director's decision is affirmed. The application remains denied.