



U.S. Citizenship
and Immigration
Services

(b)(6)

[REDACTED]

Date: **NOV 26 2014**

Office: ORLANDO, FL

[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 APPLICANT:

[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director (“the director”), Orlando, Florida, denied the application for adjustment of status and then certified the decision to the Administrative Appeals Office (AAO) for review. The decision of the director will be affirmed.

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 director denied the application on September 5, 2014, because the applicant had been convicted of one or more felonies. The director determined that the applicant was inadmissible under Section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), for having been convicted of crimes involving moral turpitude. The director noted that the record reflects that the applicant was convicted of: 1) Burglary, on August [REDACTED] 2) Burglary, and of Petit theft, on October [REDACTED]; and, 3) Petit Larceny, on May [REDACTED]. In addition, the director determined that the applicant was also inadmissible under Section 212(a)(2)(A)(i)(II) of the Act, for having been convicted on December [REDACTED] of a crime relating to a controlled substance, namely Marijuana Producing.

A waiver of grounds of inadmissibility under section 212(h) of the Act pertaining to possession of a controlled substance does not apply to Marijuana Producing for which the applicant was convicted. In addition, a waiver of grounds of inadmissibility is not available for the conviction(s) for a crime involving moral turpitude (CIMT). It is noted the court dispositions in the record reflects the above convictions.

The director certified his decision to the AAO for review on September 5, 2014, and provided the applicant with a period of 30 days to supplement the record with a brief or any additional evidence. As of this date, the AAO has not received any supplemental materials and considers the record complete.

As the applicant has not presented any evidence or arguments in rebuttal to establish that the director’s decision was erroneous, the AAO shall not disturb the decision to deny the application.

An applicant must demonstrate by a preponderance of the evidence that he is eligible for the benefit sought. Section 291 of the Immigration and Nationality Act, 8 U.S.C. § 1361, places the burden of proof upon the applicant to establish that eligibility. The applicant has failed to meet his burden of proof. Therefore, he is ineligible to adjust his status under the Cuban Adjustment Act.

ORDER: The decision of the Field Office Director is affirmed. The application for adjustment of status is denied.