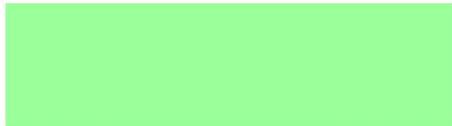




U.S. Citizenship  
and Immigration  
Services

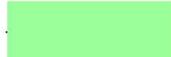
(b)(6)



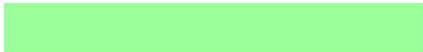
DATE: JUN 03 2013

OFFICE: TAMPA

FILE:

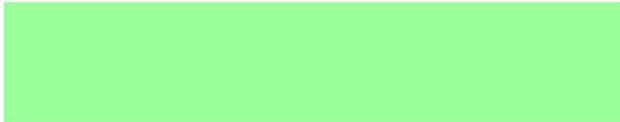


IN RE:



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

ON BEHALF OF APPLICANT:



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.

Thank you,

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office Director, Tampa, Florida, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the Form I-601 application for a waiver is unnecessary.

The record reflects that the applicant is a native of Cuba and lawful permanent resident of the United States. The applicant entered the United States as a parolee on November 29, 1999. The applicant's Form I-485, Application to Register Permanent Residence or Adjust Status, was approved on January 4, 2002.

On January 22, 2009, the applicant was convicted in Hernando County Circuit Court, Florida, of cultivation of marijuana, pursuant to section 893.13(1)(a)(2) of the Florida Statutes and grand theft in an amount exceeding 300 dollars and less than 20,000 dollars, pursuant to section 812.014(2)(c)(1) of the Florida Statutes. The applicant filed a Form I-601, Application for Waiver of Grounds of Inadmissibility, based upon his conviction for a crime involving moral turpitude, on March 29, 2012. The applicant asserts that he is 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 and seeks a waiver of inadmissibility under section 212(h) of the Act, 8 U.S.C. § 1182(h).

The Field Office Director issued a denial decision to the applicant on May 9, 2012 and subsequently issued an amended decision on May 14, 2012. In the amended decision, the field office director determined that the applicant has failed to demonstrate that he incurred inadmissibility under any provision of section 212 of the Immigration and Nationality Act (the Act) and that any application for relief sought under section 212(c) of the Act must be submitted on Form I-191. The field office director noted that the record does not indicate that the applicant has a pending Form I-485 application. *See Decision of the Field Office Director* dated May 14, 2012.

The applicant is currently a lawful permanent resident of the United States, pursuant to an approved Form I-485 application. According to United States Citizenship and Immigration Services (USCIS) records, there is no indication that the applicant's permanent residence status has been subsequently revoked or that this applicant has been subject to deportation or removal proceedings. It is noted that the Code of Federal Regulations contemplates an affirmative submission of a stand-alone section 212(h) waiver in conjunction with an application to adjust status, 8 C.F.R. § 1212.7(a)(1)(ii), or a defensive submission in removal proceedings, 8 C.F.R. § 1245.1(f). *See Matter of Abosi*, 24 I&N Dec. 204, 206 (BIA 2007). However, as this applicant is a lawful permanent resident, further pursuit of the matter at hand in these proceedings serves no purpose. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.