



U.S. Department of Justice  
Immigration and Naturalization Service

H12

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D. C. 20536



FILE: [Redacted] Office: Frankfurt

Date:

AUG 22 2000

IN RE: Applicant: [Redacted]

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

IN BEHALF OF APPLICANT: Self-represented

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which 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 which 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 Service 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 which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Terrance M. O'Reilly, Director  
Administrative Appeals Office

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**DISCUSSION:** The application was denied by the Officer in Charge, Frankfurt, Germany, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The applicant is a native of Germany who was found to be inadmissible to the United States by a consular officer under §§ 212(a)(2)(A)(i)(I) and (II) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(2)(A)(i)(I) and (II), for having been convicted of a crime involving moral turpitude and for the violation of a law relating to a controlled substance. The applicant married a United States citizen in New York in July 1999 and seeks a waiver of this ground of inadmissibility under § 212(h), 8 U.S.C. 1182(h), in order to reside with her U.S. citizen husband.

The officer in charge found the applicant statutorily ineligible for the waiver sought because her conviction involved amphetamine and not 30 grams or less of marijuana.

On appeal, the applicant's spouse states that he has recently bought a house in Killeen, Texas and will have to sell everything and return to Germany if his wife is not issued a visa. The applicant states that she only wanted to do a favor for somebody in translating German to English and that she was not thinking about the consequences. The applicant states that she has nowhere to go and her adoptive parents in Germany do not accept her husband.

Section 212(a)(2) CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.-Except as otherwise provided in this Act, aliens who are ineligible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(2) CRIMINAL AND RELATED GROUNDS.-

(A) CONVICTION OF CERTAIN CRIMES.-

(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-

(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, is inadmissible.

(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 § 102 of the Controlled Substances Act (21 U.S.C. 802)), is inadmissible.

Section 212(h) WAIVER OF SUBSECTION (a)(2)(A)(i)(II).-The Attorney General may, in his discretion, waive the application of subparagraph (A)(i)(II) of subsection (a)(2) insofar as it relates

to a single offense of simple possession of 30 grams or less of marijuana if-....

The record reflects that the applicant committed the offense of Aiding and Abetting Unlawful dealing with Narcotic Drugs (12 grams of amphetamine) on March 20, 1996. Her conviction of that violation became final on March 13, 1999.

The record also reflects that the applicant was convicted on October 16, 1998 of two counts of fraud committed with various acts.

Section 212(h) of the Act, 8 U.S.C. 1182(h), provides that the Attorney General may, in her discretion, waive this ground of inadmissibility insofar as it relates to a single offense of simple possession of 30 grams or less of marijuana. The applicant's conviction involved 12 grams of amphetamine.

The applicant is inadmissible to the United States under § 212(A)(2)(C) of the Act, and no waiver is available for such ground of inadmissibility. Therefore, no purpose would be served in approving the above application, and the appeal will be dismissed as a matter of discretion.

**ORDER:** The appeal is dismissed.