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U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

[REDACTED]

FILE: [REDACTED]

Office: Miami

Date:

JUL 17 2003

IN RE: Applicant:

[REDACTED]

APPLICATION:

Application for Waiver of Grounds of Inadmissibility under
Section 212(g) of the Immigration and Nationality Act, 8
U.S.C. 1182(g)

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision 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.

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 that 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 Bureau of Citizenship and Immigration Services (Bureau) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.



Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Acting District Director, Miami, Florida, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Nicaragua who was present in the United States without a lawful admission or parole on November 21, 1989. On December 21, 1989, his Application for Asylum was denied. On April 23, 1990, an immigration judge ordered the applicant deported. An appeal of that decision was dismissed by the Board of Immigration Appeals (the Board) on October 18, 1993.

The applicant married [REDACTED] a U.S. citizen, on May 14, 1996, and he became the beneficiary of a Petition for Alien Relative filed in July 1996. He indicated on a Form G-325 filed in 1996 that he had never been married previously. However, when he submitted his Form G-325 in March 2000, he indicated that he had been married to [REDACTED] from 1984 to 1993, prior to his marriage to [REDACTED].

The applicant's extensive record of arrests from 1991 through 1999, including several intoxication incidents, battery, trespassing, burglary and robbery, was reviewed by the Centers for Disease Control and they classified the applicant as Class A, inadmissible under section 212(a)(1)(A)(iii) of the Act, 8 U.S.C. § 1182(a)(1)(A)(iii), as an alien having a Class A medical condition.

The applicant seeks to adjust his status under section 202 of the Nicaraguan Adjustment and Central American Relief Act, Pub.L. 105-100 (NACARA). The applicant seeks the above waiver under section 212(g) of the Act, 8 U.S.C. 1182(g).

The acting district director noted that professionals in the health field have determined that the applicant's harmful behavior is likely to continue and not only places him in a harmful position but also places others in danger. The acting district director concluded that the applicant was not entitled to a favorable exercise of discretion and denied the application accordingly.

On appeal, the applicant states that he needs two months to send evidence that he has changed his life around. No additional documentation has been received for review since the appeal was filed on October 1, 2002. Therefore, a decision will be entered based on the present record.

Section 212(a)(1)(A)(iii) of the Act states that any alien who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services in consultation with the Attorney General)-

(I) to have a physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others, or

(II) to have had a physical or mental disorder and a history of behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or to lead to other harmful behavior, is inadmissible.

Pursuant too Section 212(g) of the Act, the Attorney General may waive the application of-

(3) subsection (a)(1)(A)(iii) in the case of any alien, in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in his discretion after consultation with the Secretary of Health and Human Services, may by regulation prescribe.

In an August 9, 2001 letter [REDACTED] M.D., Chief, Migration Health Assessment Section, Division of Global Migration of the Centers for Disease Control evaluates the information provided on the applicant and states "There is a history of harmful behavior associated with this disorder which is judged likely to recur..." The applicant's history of alcohol related incidents is extensive and he has provided no evidence of reformation that would warrant a favorable exercise of discretion. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.