



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 36773917

Date: FEB. 18, 2025

Appeal of Charlotte, North Carolina Field Office Decision

Form I-601, Application for Waiver of Grounds of Inadmissibility

The Applicant has applied to adjust status to that of a lawful permanent resident and seeks a waiver of inadmissibility under section 212(h) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(h).

The Director of the Charlotte, North Carolina Field Office denied the waiver application, noting that the Applicant was inadmissible for a controlled substance violation pursuant to section 212(a)(2)(A)(i)(II) of the Act and concluding that no waiver was available. The matter is now before us on appeal. 8 C.F.R. § 103.3. We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

Section 212(a)(2)(A) of the Act, 8 U.S.C. § 1182(a)(2)(A), provides that any individual convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or 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. Individuals found inadmissible under section 212(a)(2)(A) of the Act for a crime involving moral turpitude or for a controlled substance violation related to a single offense of simple possession of 30 grams or less of marijuana may seek a discretionary waiver of inadmissibility under section 212(h) of the Act, 8 U.S.C. § 1182(h).

The record establishes that the Applicant was convicted in 2003 under Kentucky law of possession of marijuana and possession of drug paraphernalia. The Director determined that the Applicant was inadmissible as a controlled substance violator and was not statutorily eligible for a waiver under section 212(h) of the Act because his controlled substance violation did not relate to a single offense of simple possession of 30 grams or less of marijuana.

On appeal, counsel for the Applicant asserts that the police report stated that the amount of marijuana in the Applicant's possession was "small" and "[c]ommon sense dictates that a 'small' amount of marijuana is less than 30 grams." The Applicant further maintains that the fact that the quantity of marijuana the Applicant possessed was "small" and "under 30 grams in total, is also supported by the fact that, pursuant to the police report and court records previously submitted, Applicant was charged only for misdemeanor simple possession of marijuana" under Kentucky law.

Where the amount of marijuana cannot be readily determined from the statute or record of conviction, applicants must provide credible evidence to meet their burden of showing that it was 30 grams or less. *Matter of Grijalva*, 19 I&N Dec. 713, 718 (BIA 1988). Police reports are considered credible and probative evidence of the circumstances surrounding an arrest and conviction for possession of marijuana. *Id.* at 722. Here, the precise amount of marijuana that the Applicant was convicted of possessing cannot be determined from the statute or record of conviction. As the record stands, the Applicant has not met his burden of showing that his 2003 controlled substance conviction related to simple possession of 30 grams or less of marijuana.

The record supports the Director's finding that the Applicant is not statutorily eligible for a waiver under section 212(h) of the Act because he has not established that his controlled substance violation relates to a single offense of simple possession of 30 grams or less of marijuana. The Applicant is inadmissible as a controlled substance violator and is not eligible for a waiver.

ORDER: The appeal is dismissed.