

Interim Decision #1411

MATTER OF MARTINEZ-TORRES

Application for PERMISSION TO REAPPLY

A-6618013

Decided by Regional Commissioner October 16, 1964

Application for permission to reapply for admission, pursuant to section 212(a) (17), Immigration and Nationality Act, is denied, in the exercise of discretion, to an alien convicted of a law relating to illicit traffic in marijuana (26 U.S.C. 4744(1)), since he is mandatorily excludable from the United States under section 212(a) (23) of the Act and no purpose would be served in granting the application.

This case is before the Regional Commissioner on appeal from the District Director's decision denying the application as a matter of discretion.

The applicant is a 51-year-old male, a native and citizen of Mexico. He is married to a native and citizen of Mexico who resides in Mexico. The applicant has no children.

The applicant was last deported from the United States on January 2, 1962 at El Paso, Texas under the provisions of section 241(a) (11) of the Immigration and Nationality Act in that "he at any time has been convicted of a violation of any law or regulation relating to the illicit traffic in marihuana. (26 U.S.C. 4744(1))." The record in this case contains a record of criminal proceedings wherein the applicant was convicted and sentenced in the United States District Court at El Paso, Texas for violation of 26 U.S.C. section 4744(1), in that he was a transferee of a quantity of marijuana without paying the tax thereon as required by law, and as a result of such conviction was on December 15, 1961 sentenced by the court to a term of two years imprisonment, and the execution of the sentence was suspended for a period of two years, the defendant (applicant) being placed on probation for that term.

As the applicant is mandatorily inadmissible to the United States under the provisions of section 212(a) (23) of the Immigration and Nationality Act as one who has been convicted of a law relating to the illicit traffic in marijuana (26 U.S.C. 4744(1)), no purpose would

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be served in granting his application for permission to reapply for admission into the United States. Accordingly, the District Director's action in denying the application as a matter of administrative discretion was proper and the appeal will be dismissed.

ORDER: It is ordered that the appeal be and the same is hereby dismissed.