

LAWYERS AT LAW AND ASSOCIATES

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*Attorneys are licensed in Commonwealth of Pennsylvania and Federal District Courts in Pennsylvania, Ohio and New Jersey.

May 15, 2020

USCIS
Attn: N-400
131 S. Dearborn, 3rd Floor
Chicago, IL 60603-5517

In Re: Petitioner: JOHN SMITH
A Number: A XXX-XXX-XXX

Explanation letter for Part 12, Page 14, Numbers 23-24 of N-400 for JOHN SMITH

Dear Adjudicating Officer:

We are attaching with this letter the full court records of Mr. JOHN SMITH. On April 3, 2003, Mr. SMITH was charged by the County of Santa Clara with a misdemeanor for violating California PC 261.5(B). We would like the Service to note that the charge was originally incorrectly filed, but the record has been corrected appropriately. For the Service's records, we have attached a copy of the California Penal Code as **Exhibit A** and Mr. SMITH's court documents as **Exhibit B**.

As per INA 212 (a), Crimes involving moral turpitude make an alien inadmissible and ineligible to receive visas and be admitted to the United States, unless the crime falls under a specified exception. It is our assertion and position that Mr. SMITH's situation meets the exception under 8 U.S.C. § 1182, INA Act 212 (a) (2) (A) (ii), attached as **Exhibit C**, which clearly states,

“Clause (i) (I) shall not apply to an alien who committed only one crime if -- (II) the maximum penalty possible for the crime of which the alien was convicted (or which the alien admits having committed or of which the acts that the alien admits having committed constituted the essential elements) did not exceed imprisonment for one year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment in excess of 6 months (regardless of the extent to which the sentence was ultimately executed).”

Mr. SMITH was ordered to serve 40 hours of community service, which he completed on DATE. Furthermore, this is the only such crime Mr. SMITH has plead *nolo contendere* to or been convicted or cited of. As such, Mr. SMITH meets the requirements of the exception to INA 212 (a)(2)(ii) and therefore Mr. SMITH is admissible and is not removable from the United States based on this one instance involving a misdemeanor. Based on these facts, Mr. SMITH meets

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the criteria of the exception to INA Act 212 and his citation is disregarded for purposes of his adjustment of status adjudication for permanent residency.

Sincerely,

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Esther Q Lawyer