

MATTER OF G—

In EXCLUSION Proceedings

A-8250353

Decided by Board January 21, 1959

Waivers of excludability—Section 211(b), Immigration and Nationality Act, may be exercised in conjunction with sections 5 and 7 of the Act of September 11, 1957.

Waiver of visa requirement under section 211(b) of the Immigration and Nationality Act may be granted concurrently with waivers under sections 5 and 7 of the Act of September 11, 1957, to authorize admission of returning resident alien.

EXCLUDABLE: Act of 1952—Section 212(a)(9)—Convicted of crime involving moral turpitude, to wit: Forgery in violation of section 267, German Criminal Code.

BEFORE THE BOARD

Discussion: This case comes before us by certification. The applicant, a 39-year-old married male, is a native of Poland and is now allegedly stateless. He was admitted for permanent residence on March 2, 1952. Shortly thereafter he went to Germany where his affairs detained him for several years. In Germany he was convicted on February 12, 1954, for forgery. He served a short prison term. When it came time to return to the United States he applied for a visa and was found qualified to receive one as a returning resident. He did not reveal that he had been convicted or arrested. The visa was issued on November 1, 1955, and the applicant applied for admission on December 7, 1955. After a series of hearings he was found excludable on the ground contained in the caption.

The special inquiry officer granted a waiver of the ground of inadmissibility resulting from the conviction of crime under section 5 of the Act of September 11, 1957, and ordered the applicant's admission. We believe that this action is proper. However, because of the wording of section 5, it cannot be used to make valid a visa issued prior to September 11, 1957. The action of the special inquiry officer, therefore, does not eliminate the inadmissibility resulting from the applicant's lack of a valid visa. This lack of a valid document will be waived under section 211(b) of the Immi-

gration and Nationality Act (8 U.S.C. 1181(b)). We shall also waive any grounds of inadmissibility which may have arisen out of the obtaining of the visa on November 1, 1955, without revealing the facts concerning his arrest and conviction for forgery.

Order: It is ordered that the applicant's readmission be authorized as a returning resident without his being required to obtain documents, under the authority of section 211(b) of the Immigration and Nationality Act.

It is further ordered that any grounds of inadmissibility arising out of the applicant's failure to reveal his arrest and conviction for forgery when he applied for the visa issued on November 1, 1955, be and the same is hereby waived under sections 5 and 7 of Public Law 85-316.

It is further ordered that the order of the special inquiry officer permitting the applicant's admission to the United States as a returning resident be and the same is hereby approved.