

MEMORANDUM

October 31, 1996

To: T. Jeremy Gunn, Esq.

From: Ronald G. Haron, Esq.

Subject: INS Regulations Governing Marina Oswald's Entry Into
The United States

You have asked me to briefly explain the immigration provision pursuant to which Marina Oswald entered the United States, focusing particularly on a so-called "waiver" granted to Mrs. Oswald under Section 243(g) of the 1952 Immigration and Nationality Act, Pub. L. No. 82-414, 66 Stat. 163, 214 (1952).

Section 243(g) authorizes the Secretary of State to sanction a country that refuses to cooperate in accepting the return of an alien deported from the United States to that country. Specifically, the Secretary of State "shall instruct consular officers . . . in . . . such country to discontinue the issuance of immigrant visas to nationals, citizens, subjects, or residents" of that country. Apparently, that sanction was imposed on the Soviet Union at the time Marina Oswald sought a visa to enter the United States. The statute makes no mention, however, of any "waiver" of the sanction. Nor could I locate the 1961-62 INS regulation that authorizes the INS to waive the sanction, although I did locate the 1964-enacted INS regulation that explicitly addresses this issue.

The 1964-enacted INS regulation noted that "provisions of section 243(g) of the Act have been applied to residents of" the Soviet Union, Czechoslovakia, and Hungary. *See Imposition of Sanctions*, 29 Fed. Reg. 10499 (1964) (later codified at 8 C.F.R. § 243.8 (1965)). That INS regulation also provided that "[t]he sanctions imposed on residents" of these countries "may be waived in an individual case for the beneficiary of a petition" to enter the United States under Section 101 (a) (27) (A) (i.e., as a spouse of a citizen of the U.S.). These INS regulations also provide that:

The sanctions also may be waived upon an individual request by the Department of State in behalf of a visa applicant who is not the beneficiary of an approved visa

petition. Upon approval of a visa petition or upon an individual request by the Department of State in behalf of a visa applicant who is not the beneficiary of an approved visa petition, the district director will determine whether sanctions shall be waived.

8 C.F.R. §243.8 (1965). This INS regulation, however, was enacted in 1964 and thus was not operative at the time of Marina Oswald's visa application. Presumably, there was a predecessor provision in effect in 1961-62, but I have been unable to locate it in the Code of Federal Regulations or the Federal Register. Let me know if you deem it necessary to look at any of the INS papers on Oswald to locate the specific 1961-62 regulatory provision pursuant to which Mrs. Oswald was granted a waiver.

I have attached a copy of the Section 243(g) of the Immigration and Nationality Act, as well as the applicable INS regulation at 8 C.F.R. § 243.8.