

UNITED STATES DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE

COVER SHEET

RECORD OF PROCEEDING

This is a permanent record of the Immigration and Naturalization Service. Any part of this record that is removed **MUST BE RETURNED** after it has served its purpose.

INSTRUCTIONS

1. Place a separate cover sheet on the top of each Record of Proceeding.
2. Each Record of Proceeding is to be fastened on the inner left side of the file jacket in chronological order.
3. Any person temporarily removing any part of this record must make, date, and sign a notation to this effect which is to be retained in this record, below the cover sheet. The signer is responsible for replacing the removed material as soon as it has served its purpose.
4. See AM 2710 for detailed instructions.

Memo to the File

Lennon, John

A17-597-321

December 16, 1971

Lennon, Yoko Ono



(b)(6)

I-129 b visa petitions requesting H-1 status was submitted on December 16, 1971 by W.F. Productions of 240 West 44th Street New York, N.Y. in behalf of the Lenmons to appear on the "David Frost Show". They are to tape the show at 6:00 PM on December 16, 1971.

Mr. Abe Spinack, Assistant District Director, Travel Control and Mr. Sal Marks, District Director, New York were advised that the visa petitions and requests to change nonimmigrant status for both the Lenmons were received in this office. Mr. Marks requested that Mr. Sam Bernson be advised of the request. I telephonically contacted C.O. and spoke with Mr. Lehmann, advising him of the visa petition and the I-506 applications.

Mr. Lehmann authorized the approval of the I-129 b (H-1) for both subjects and declined processing of the requests for change of status (I-506 applications) in order to avoid restoration to B-2 status which involves

the processing of another I-506 application.

Both I-94's of the subjects were notated recording the approval of the I-129 b for the taping of the show.

Mr Lehman felt that yoko Ono should be classified as H-1 in that she is considered an artist and is appearing as a team with her spouse John Lennon.

Phillip L. Conley
Supervisory Immigrant Inspector
New York, N.Y.

PAGE WITHHELD PURSUANT TO
(b)(5)

IMMIGRATION JUDGE HEARING WORKSHEET AND MEMORANDUM

Place NY NY File No. A-17597321
Respondent or Applicant JOHN WINSTON LENNON Trial Attorney DUNLOP
Address _____ Recorded by _____
Counsel or Representative LEON WILDES Interpreter _____
Address _____ Language ENG

DEPORTATION HEARING Deportability Contested Not Contested
OSC charge _____ Sustained Not Sustained
Lodged _____ Sustained Not Sustained
Application 245
Deportation country:
Choice _____ Directed _____ Or _____
243(h) requested as to _____

EXCLUSION HEARING Application _____ Country of birth _____
Grounds: 1. _____ I&N Act Sec. 212(a)() Excludable Not Excludable
2. _____ I&N Act Sec. 212(a)() Excludable Not Excludable

BOND PROCEEDINGS Application _____
PROCEEDINGS COMMENCED ON 7/27/76
On _____ Adjourned to _____ For _____
On _____ Adjourned to _____ For _____
On _____ Adjourned to _____ For _____
COMPLETED ON 7/27/76

DECISION: 245 granted
 Oral Reserved Written _____ Served _____
Appeal by Alien Trial Attorney due _____ Brief due _____
 Order Final Form I-296 Served Transcribe Hearing Transcript to Attorney
 Appeal Reserved Certified to BIA Serve Decision Info copy of oral decision

REMARKS:

John Winston Lennon

Documents To Be Submitted

Character affidavits _____ DUE _____ Financial Statement _____ DUE _____
 Character Inv. _____ Police Certificate _____ Other _____
 Employment Statement _____ Proof of Residence _____

STENOGRAPHIC OR RECORDING MACHINE RECORD

File No. 17 595 321

Date 7/27/76

In the case of _____

Stenographer _____

No. of records enclosed _____

Decision of SIO 245 g... -

Transcribe decision only

Detained

Transcribe complete record

Not detained — give priority

Extra copy required — criminal

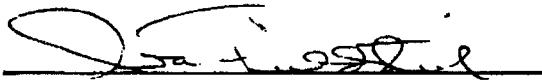
No priority

Extra copy required — expert witness

Exhibits enclosed

Examining Officer's name
(when used)

Exhibits not enclosed



SPECIAL INQUIRY OFFICER

Transcribed on _____
DATE

By _____
STENOGRAPHER

UNITED STATES GOVERNMENT

Memorandum

TO : IMMIGRATION JUDGE *Fieldsteel*

DATE: *7-6-76*

FROM : WILLIAM H. COOK, ASSISTANT DISTRICT DIRECTOR
FOR TRAVEL CONTROL

SUBJECT: *John Winston Lennon, A17597321*

SECTION 245 APPLICATION HAS BEEN PROCESSED. STIPULATED DOCUMENTS
HAVE BEEN OBTAINED AND ARE FORWARDED HERewith.

IF VISA NUMBER IS NOT USED PROMPTLY, PLEASE NOTIFY THIS UNIT SO
THAT NUMBER MAY BE CANCELLED AND RETURNED TO THE VISA CONTROL
OFFICE.

SUBJECT HAS NO CRIMINAL ARREST RECORD.

William H. Cook

UNITED STATES DEPARTMENT OF JUSTICE
 IMMIGRATION AND NATURALIZATION SERVICE

A17597321
 FILE NO. _____

DATE: _____

MEDICAL EXAMINATION AND IMMIGRATION INTERVIEW

JOHN WINSTON ONO LENNON
 1 West 72nd St. N.Y. N.Y. 10023

INSTRUCTIONS FOR MEDICAL EXAMINATION

A medical examination is necessary as part of your application for adjustment of status to permanent resident. If you have reached your fifteenth birthday you must IMMEDIATELY obtain and bring with you when you appear for your medical examination a serology report and 14" x 17" chest X-ray film with a reading by a licensed physician interpreting the X-ray film. The serologic test must be performed by a laboratory approved by a state or local health department. The X-ray film and serologic test for syphilis may not be more than 90 days old. YOUR MEDICAL EXAMINATION CANNOT BE COMPLETED WITHOUT THE (1) SEROLOGIC REPORT, (2) X-RAY AND (3) READING OF THE X-RAY FILM.

Please note, also the boxes checked below with regard to your medical examination.

Please obtain your serologic report, X-ray film and reading promptly. You may telephone your state or local Health Department for the name of an approved laboratory where you may obtain these. Bring them and copies of this letter with you when you appear for examination by a physician of the U.S. Public Health Service for which an appointment has been made at the place and date indicated below:

ADDRESS: _____

DATE: _____

TIME: _____

Please communicate immediately with the below listed physician or with one of the physicians on the attached list, if a list is attached, (1) to ascertain what arrangements you should make to obtain a serologic report, X-ray film and reading prior to your medical examination, and (2) to arrange for your medical examination by him, which must be completed before _____

PHYSICIAN'S NAME, ADDRESS, AND TELEPHONE NUMBER: _____

Please show this letter to any laboratory performing tests. Also present the copies of the letter to the physician performing the medical examination, and furnish him with your signature written in his presence for inclusion with his report.

TO PHYSICIAN PERFORMING THE EXAMINATION

PLEASE OBTAIN THE APPLICANT'S SIGNATURE IN THE SPACE PROVIDED AND MEDICALLY EXAMINE HIM FOR ELIGIBILITY FOR ADJUSTMENT OF STATUS. IF THE APPLICANT IS FREE OF MEDICAL DEFECTS LISTED IN SECTION 212 (A) OF THE IMMIGRATION AND NATIONALITY ACT, ENDORSE THIS COPY OF FORM 1-486A IN THE SPACE PROVIDED AND HAND IT TO THE APPLICANT IN A SEALED ENVELOPE FOR PRESENTATION AT HIS IMMIGRATION INTERVIEW. IF THE APPLICANT IS NOT FREE OF SUCH MEDICAL DEFECTS, DO NOT SIGN THIS FORM; INSTEAD WRITE "SEE FS-398" IN THE PHYSICIAN'S SIGNATURE BLOCK AND PREPARE MEDICAL CERTIFICATE ON FORM FS-398 AND HAND IT TO THE APPLICANT IN A SEALED ENVELOPE TOGETHER WITH THIS COPY OF FORM 1-486A FOR PRESENTATION AT HIS IMMIGRATION INTERVIEW. (IF EXAMINATION IS CONDUCTED BY A CIVIL SURGEON, INSERT IN ENVELOPE BOTH COPIES OF FORM 1-486A; X-RAYS AND LABORATORY REPORTS; AND TWO COPIES OF FORM FS-398 IF APPLICANT IS NOT FREE OF MEDICAL DEFECTS.)

DISTRICT DIRECTOR

I CERTIFY THAT THE ATTACHED X-RAY AND SEROLOGY REPORT (BLOOD TEST) RELATE TO ME.
 SIGNATURE OF APPLICANT:

X *John Winston Ono Lennon*

PENALTY: THE LAW PROVIDES SEVERE PENALTIES FOR KNOWINGLY AND WILFULLY FALSIFYING OR CONCEALING A MATERIAL FACT OR USING ANY FALSE DOCUMENTS IN CONNECTION WITH THIS APPLICATION.

MY EXAMINATION INCLUDING X-RAY, BLOOD SEROLOGICAL AND OTHER REPORTS, WHEN NEEDED, SHOW THE APPLICANT TO BE FREE OF ANY DEFECTS, DISEASES OR DISABILITIES LISTED IN SECTION 212(A) OF THE IMMIGRATION AND NATIONALITY ACT AS AMENDED.

SIGNATURE OF PHYSICIAN

By Phys Test

DATE

6/1/76

TITLE

Life Extension Institute
 1158 Avenue of the Americas
 New York, N.Y. 10020

2086

CO. #	COMPANY NAME	EXAM DATE <i>6/1/76</i>
TELE. #	EXAMINEE NAME <i>John L. LINDIC</i>	DATE OF BIRTH <i>10/9/46</i>
LAST EXAM DATE	C/ ADDRESS	ORIGINATOR <input type="checkbox"/> 1185 <input type="checkbox"/> 11 E. <input type="checkbox"/> 120 BY: <i>118</i>
TYPE OF EXAMINATION <input checked="" type="checkbox"/> ANNUAL <input type="checkbox"/> RE <input type="checkbox"/> SUPPLEMENT	STREET ADDRESS <i>1 West 72 St.</i>	
	CITY/STATE/ZIP <i>Ny. Ny. 10023</i>	

REPORT INSTRUCTIONS	BILLING INSTRUCTIONS
REPORT TO BE: <input type="checkbox"/> CALLED FOR. DATE: _____ AM PM <input type="checkbox"/> MAILED. ADDRESS FOR REPORT IF DIFFERENT THAN ABOVE.	<input checked="" type="checkbox"/> AID <i>30</i> <input type="checkbox"/> BILL <input type="checkbox"/> COMPANY <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> ON SERVICE
SPECIAL INSTRUCTIONS	

SERVICE		RESULTS
DESCRIPTION	EXAM #	
<i>Exam</i>		
<i>Med</i>		
<i>Chest x-ray</i>		
<i>Analysis - negative</i>		<i>STAT -</i>

CO. #	COMPANY NAME	EXAM DATE 6/1/76
TELE. #	EXAMINEE NAME John Lennon	DATE OF BIRTH 12/9/40
LAST EXAM DATE	C/O ADDRESS	ORIGINATOR <input type="checkbox"/> 1185 <input type="checkbox"/> 11 E. <input type="checkbox"/> 120
TYPE OF EXAM <input type="checkbox"/> ANNUAL <input type="checkbox"/> PRE <input type="checkbox"/> SUPPLEMENT	STREET ADDRESS 1 West 72 St.	BY: MB
	CITY/STATE/ZIP N.Y. N.Y. 10023	

REPORT INSTRUCTIONS	BILLING INSTRUCTIONS
REPORT TO BE: <input type="checkbox"/> CALLED FOR. DATE: _____ AM PM <input type="checkbox"/> MAILED. ADDRESS FOR REPORT IF DIFFERENT THAN ABOVE.	<input checked="" type="checkbox"/> PAID 30 <input type="checkbox"/> BILL <input type="checkbox"/> COMPANY <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> ON SERVICE
SPECIAL INSTRUCTIONS	

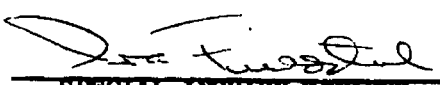
SERVICE		RESULTS
DESCRIPTION	EXAM #	
Arm		
Neck		
Chest X-ray		
Proscopy		STAT
		No active lung condition
		M. J.
		Reg. J. H.

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

Processing Sheet

Application or
Petition Form NO. I-485

File No. A17 597 321

NAME <u>JOHN WINSTON LENNON</u>		DATE <u>5-19-76</u>	
<u>THIRD</u>	PREFERENCE PRIORITY DATE <u>3-6-72</u>	QUOTA <u>GREAT BRITAIN + N. IRELAND</u>	
NON PREFERENCE PRIORITY DATE		TA <u>DUNLEP</u>	
DOCUMENTS TO BE SUBMITTED	DUE DATE	RECEIVED	REMARKS
PASSPORT			
I-94			
BIRTH CERTIFICATE <u>OF CHILD</u>			
MARRIAGE CERTIFICATE			
EMPLOYMENT RECORD			
BANK STATEMENT			
SELECTIVE SERVICE			
TAX RETURN <u>STATEMENT</u>			
SERVICE PROCESSING:		SUBMITTED	RECEIVED
MEDICAL EXAMINATION	<u>5-24-76</u> ✓		
G-325A (1) F.B.I. Identification Div.	<u>5/24/76</u> ✓		
(4) CONSUL <u>London</u>	✓		
I-181	<u>5/24/76</u> ✓		
SPECIAL INSTRUCTIONS			
 SPECIAL INQUIRY OFFICER			

This form may be overprinted or stamped to show instructions, items requested, items received, or other pertinent data which may facilitate processing.

Keep this sheet on top of all material in file until initial decision is made

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
New York, New York

NOTICE OF THIRD SIXTH PREFERENCE PETITION APPROVED UNDER SECTION 203(a)
OF THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED.

IMPORTANT: IF THIS PETITION HAS BEEN APPROVED FOR SIXTH PREFERENCE AND
IF CONDITIONS CHANGE SO THAT YOU DO NOT INTEND TO EMPLOY THE BENEFICIARY,
NOTIFY THIS OFFICE IMMEDIATELY.

Name of Beneficiary John Winston LANNON		File No. A17 597 321	Date of Notice May 2, 1972
Country of birth England	Occupation Composer(Musician)	Date Petition Filed March 6, 1972	

VALIDITY: The approval of a petition for third or sixth preference classification is valid for as long as the supporting labor certification is valid and unexpired, provided in the case of a petition for third preference classification there is no change in the beneficiary's intention to engage in the indicated profession, art or science, and provided in the case of a petition for sixth preference classification there is no change in the respective intentions of the petitioner and the beneficiary that the beneficiary will be employed by the petitioner in the capacity indicated in the petition.

Please note the items below which are indicated by "x" marks concerning this petition.

- Your petition for preference classification has been approved by the Service and forwarded to the United States Consulate at _____ This completes all action by this Service on the petition. This Service has nothing to do with the actual issuance of visas. Visas are issued only by a United States Consul who is under the jurisdiction of the U.S. Department of State. Under the law only a limited number of visas may be issued by that Department during each year and they must be issued strictly in the chronological order in which petitions were filed for the same classification. When the beneficiary's turn is reached on the visa waiting list, the United States Consul will inform him and consider issuance of the visa. *Inquiry concerning visa issuance should be addressed to the Consul. This Service will be unable to answer any inquiry concerning visa issuance.*
- The petition has been approved. The petition states that the beneficiary is in the United States and will apply to become a lawful permanent resident. The enclosed application for this purpose (Form I-485) should be completed and submitted by the beneficiary in accordance with the instructions contained therein. (If the beneficiary had previously submitted Form I-485 which was returned to him, he should resubmit that form.)
- The petition has been approved. The beneficiary will be informed of the decision made on his pending application to become a lawful permanent resident (Form I-485).
- The petition has been approved. The petition states that the beneficiary is in the United States and will apply for adjustment of status to that of a lawful permanent resident. A visa number is not presently available; therefore, the beneficiary may not apply for adjustment of status to that of a permanent resident. The beneficiary has been or will be notified concerning his stay in the United States.

Remarks: **The visa petition has been approved.**

cc: Leon Wildes, Esq.
515 Madison Avenue, NYC

NAME AND ADDRESS OF PETITIONER

**John Winston Lannon
106 Bank Street
New York, New York**

12941

Very truly yours,
Best "Reproducible" Copy Available

DISTRICT DIRECTOR

CHECK THIS BOX WHEN COPY MAILED TO ATTORNEY OR REPRESENTATIVE
FILE COPY

RIDER TO FORM G-325A

RE: JOHN WINSTON ONO LENNON
Social Security #127-52-1582

Self-employment was in connection with the following corporations:

Apple Corps, Limited
Maclen (Music) Limited
Lennon Productions Limited
Bag Productions, Limited
Joko Films, Limited
Ono Music, Limited
Subafilms, Limited
Apple Films, Limited
Apple Publishing, Limited
The Beatles, Limited

Lennon Productions, Inc.
Joko Films, Inc.
Bag Music Productions, Inc.
Yoko Ono Projects, Inc.
Ono Music, Inc.

4/6 Lennon Music
1370 6th Ave.
Nyc N.Y.

John Lennon

JOHN WINSTON ONO LENNON

↑
All
c/o Barry E. Nichols
Arthur, Young, McClelland, Moore & Co -
Moorehouse, London Wall
London - EC 2y 5HD

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BIOGRAPHIC INFORMATION


(Family name) LENNON	(First name) John	(Middle name) Winston Ono	<input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	BIRTHDATE(Mo.-Day-Yr.) 10/9/40	NATIONALITY British	ALIEN REGISTRATION NO. (If any) A17 597 321
ALL OTHER NAMES USED (Including names by previous marriages) none			CITY AND COUNTRY OF BIRTH Liverpool, England		SOCIAL SECURITY NO. (If any) 127-52-4582	
FATHER	FAMILY NAME LENNON	FIRST NAME Alfred	DATE, CITY AND COUNTRY OF BIRTH(IF known) Liverpool, England		CITY AND COUNTRY OF RESIDENCE (deceased)	
MOTHER(Maiden name)	FAMILY NAME STANLEY	FIRST NAME Julia	DATE, CITY AND COUNTRY OF BIRTH Liverpool, England		CITY AND COUNTRY OF RESIDENCE (deceased)	
HUSBAND(If none, so state) OR WIFE	FAMILY NAME (For wife, give maiden name) ONO	FIRST NAME Yoko	BIRTHDATE	CITY & COUNTRY OF BIRTH	DATE OF MARRIAGE	PLACE OF MARRIAGE
FORMER HUSBANDS OR WIVES(if none, so state)			BIRTHDATE		DATE & PLACE OF MARRIAGE	DATE AND PLACE OF TERMINATION OF MARRIAGE
FAMILY NAME (For wife, give maiden name) Powell		FIRST NAME Cynthia	BIRTHDATE		DATE & PLACE OF MARRIAGE	DATE AND PLACE OF TERMINATION OF MARRIAGE

APPLICANT'S RESIDENCE LAST FIVE YEARS. LIST PRESENT ADDRESS FIRST.				FROM		TO	
STREET AND NUMBER	CITY	PROVINCE OR STATE	COUNTRY	MONTH	YEAR	MONTH	YEAR
1 W. 72nd Street A.P. #2	N.Y.	New York	USA	May	73	PRESENT TIME	
105 Bank Street	N.Y.	New York	USA	Nov	71	May	73
St. Regis Hotel	N.Y.	New York	USA	Aug	71	Nov	71
Tittenhurst, London Rd.	Ascot	Berkshire	England	Nov	69	Aug	71

APPLICANT'S LAST ADDRESS OUTSIDE THE UNITED STATES OF MORE THAN ONE YEAR				FROM		TO	
STREET AND NUMBER	CITY	PROVINCE OR STATE	COUNTRY	MONTH	YEAR	MONTH	YEAR

APPLICANT'S EMPLOYMENT LAST FIVE YEARS. (IF NONE, SO STATE.) LIST PRESENT EMPLOYMENT FIRST.				FROM		TO	
FULL NAME AND ADDRESS OF EMPLOYER	OCCUPATION (SPECIFY)	MONTH	YEAR	MONTH	YEAR	PRESENT TIME	
(self employed artist)	(past five years)						

Show below last occupation abroad if not shown above. (Include all information requested above.)

THIS FORM IS SUBMITTED IN CONNECTION WITH APPLICATION FOR: <input type="checkbox"/> NATURALIZATION <input checked="" type="checkbox"/> ADJUSTMENT OF STATUS <input type="checkbox"/> OTHER (SPECIFY):	SIGNATURE OF APPLICANT OR PETITIONER 	DATE 3/31/76
Are all copies legible? <input checked="" type="checkbox"/> Yes	IF YOUR NATIVE ALPHABET IS IN OTHER THAN ROMAN LETTERS, WRITE YOUR NAME IN YOUR NATIVE ALPHABET IN THIS SPACE:	

(b)(6)
(b)(6)

PENALTIES: SEVERE PENALTIES ARE PROVIDED BY LAW FOR KNOWINGLY AND WILLFULLY FALSIFYING OR CONCEALING A MATERIAL FACT.

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

527 F(2) 187

No. 18—September Term, 1975.

(2nd Cir 1975)

(Argued September 4, 1975 Decided October 7, 1975.)

Docket No. 74-2189

JOHN WINSTON ONO LENNON,

Petitioner,

v.

IMMIGRATION AND NATURALIZATION SERVICE,

Respondents.

Before:

KAUFMAN, *Chief Judge,*

MULLIGAN and GURFEIN, *Circuit Judges.*

Petition to review an order of the Board of Immigration Appeals directing deportation of John Lennon and denying his application for adjustment of status.

Reversed and remanded with instructions.

NATHAN LEWIN, Esq., Washington, D.C. and

LEON WILDES, Esq., New York, N.Y., for
Petitioner.

MARY P. MAGUIRE, Special Assistant United States Attorney (Paul J. Curran, United States Attorney, S.D.N.Y., and Mel P. Barkan and Naomi Rice Buchwald, Assistant United States Attorneys, of counsel),
for Respondent.

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JACK WASSERMAN, ESTHER M. KAUFMAN, DONALD L. UNGER, and MARK A. MANCINI filed a brief for the Association of Immigration and Nationality Lawyers as *amicus curiae* urging reversal.

KAUFMAN, Chief Judge:

We have come a long way from the days when fear and prejudice toward alien races were the guiding forces behind our immigration laws. The Chinese exclusion acts of the 1880's and the "barred zone" created by the 1917 Immigration Act have, thankfully, been removed from the statute books and relegated to the historical treatises. Nevertheless, the power of Congress to exclude or deport natives of other countries remains virtually unfettered. In the vast majority of deportation cases, the fate of the alien must therefore hinge upon narrow issues of statutory construction. To this rule, the appeal of John Lennon, an internationally known "rock" musician, presents no exception. We are, in this case, called upon to decide whether Lennon's 1968 British conviction for possession of cannabis resin renders him, as the Board of Immigration Appeals believed, an excludable alien under §212(a)(23) of the Immigration and Nationality Act (INA), 8 U.S.C. §1182(a)(23), which applies to those convicted of illicit possession of marijuana. We hold that Lennon's conviction does not fall within the ambit of this section.

I.

To provide the necessary context for decision in this case, an overview of the factual background is appropriate.

On October 18, 1968, detectives from the Scotland Yard drug squad conducted a warrantless search of Lennon's

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apartment at 34 Montague Square, London. There, the officers found one-half ounce of hashish inside a binocular case and thereupon placed Lennon under arrest. Lennon pleaded guilty to possession of cannabis resin in Marylebone Magistrate's Court on November 28, 1968; he was fined £150.¹

On August 13, 1971, Lennon and his wife Yoko Ono arrived in New York. They had come to this country to seek custody of Mrs. Lennon's daughter by a former marriage to an American citizen.

It was at this point that the Lennons first met with the labyrinthine provisions of the Immigration and Nationality Act which were to result in the deportation proceedings which we review. Accordingly, a brief description of the relevant portions of that Act is here in order.

INA §212(a), 8 U.S.C. §1182(a), lists thirty-one classes of "excludable aliens" who are ineligible for permanent residence, and, indeed, are (with the exception provided by §212(d)(3)(A)), unable to enter this country at all. This portion of the Act is like a magic mirror, reflecting the fears and concerns of past Congresses. Among those excludable is

any alien who has been convicted of a violation of . . . any law or regulation relating to the illicit possession of . . . marihuana (§212(a)(23))

Section 212(d)(3)(A) permits the INS, in its discretion, temporarily to waive excludability and to admit the alien under a temporary non-immigrant visa. When this visa expires, the alien must leave or face deportation. INA §241(a)(2), 8 U.S.C. §1251(a)(2). At any time after admission, however, the alien may petition for permanent

¹ It is unnecessary to discuss the facts underlying Lennon's conviction in greater detail since they are not relevant to our decision. See note 17, *infra*.

resident status. INA §245(a), 8 U.S.C. §1255(a). This application can be, in effect, a challenge to his classification as an excludable alien.

Since Lennon's conviction appeared to render him excludable, the INS specifically waived excludability under §212(d)(3)(A). The Lennons were then given temporary visas valid until September 24, 1971; the INS later extended the expiration date to February 29, 1972.

The day after Lennon's visa expired, March 1, Sol Marks, the New York District Director of the INS, notified the Lennons by letter that, if they did not leave the country by March 15, deportation proceedings would be instituted. On March 3, Lennon and his wife filed third preference petitions.² In response to these applications, the INS instituted deportation proceedings three days later. The INS, for reasons best known to them, did not act on the applications, and the Lennons were therefore unable to apply for permanent residence. After waiting two months, the Lennons filed suit in the Southern District for an injunction compelling the INS to rule on their petitions. *Lennon v. Marks*, 72 Civ. 1784.³ At oral argu-

² A third preference petition is a preliminary application under INA §245, 8 U.S.C. §1255, for permanent residence. An alien admitted under a temporary visa must secure an immigrant visa before applying for permanent residence. §245. Visas are allocated on a quota system which gives preference to several groups, one of which, the "third preference", is given to "qualified immigrants who . . . because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States." INA §203(a)(3), 8 U.S.C. §1153(a)(3). In order to receive this preference, the alien must file a petition with the INS: 8 C.F.R. §204.1(c). He cannot apply for permanent residence until this petition has been approved. 8 C.F.R. §245.2(2).

³ This case was one of three actions instituted by Lennon in the Southern District during the course of these prolonged proceedings. For the purpose of clarity we list these actions at this point, although we discuss them in greater detail below:

ment in that case, Marks advised the judge that the INS would consider the applications; they were approved within the hour.

In March, April, and May, 1972, deportation hearings were held before Immigration Judge Fieldsteel. On May 12, 1972, ten days after the INS finally approved their petition for third preference status, the Lennons applied to the Immigration Judge for permanent residence.⁴ During the hearing, letters from many eminent writers, artists, and entertainers, as well as from John Lindsay, at that time the Mayor of New York, were submitted to show that, were the applications approved, the Lennons would make a unique and valuable contribution to this country's cultural heritage. The Government did not challenge Lennon's artistic standing, but instead contended that his 1968 guilty plea made him an excludable alien, thus mandating the denial of his application. Lennon countered by arguing that he was not excludable under §212(a)(23) since he had not been convicted of violating a law forbidding illicit possession. Under British law, Lennon urged, guilty

1. *Lennon v. Marks, supra*, instituted in May 1972, was a suit for an injunction compelling the INS to act on Lennon's third preference petition, which the INS had pigeonholed. The suit became moot when the INS granted the petition.
2. *Lennon v. Richardson*, 73 Civ. 4476, instituted in October 1973, was an action brought under the Administrative Procedure Act, 5 U.S.C. §522, to obtain INS records detailing the INS procedure of granting of "nonpriority status" to otherwise deportable aliens. The INS mooted this action by providing copies of 1,863 case files of aliens accorded nonpriority status.
3. *Lennon v. United States*, 73 Civ. 4543, instituted in October 1973, was a suit to enjoin Lennon's deportation on the grounds that he had been singled out for deportation because of his political beliefs. This action is still pending.
4. Since deportation proceedings had been commenced, Lennon was required to make the application directly to the Immigration Judge. 8 C.F.R. §242.17(a), §245.2(a)(1).

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knowledge was not an element of the offense. Lennon further argued that, by commencing deportation proceedings while he was seeking custody of his wife's child,⁵ the agency had violated its hitherto invariable practice and therefore had abused its discretion.⁶

The Immigration Judge filed his decision on March 23, 1973. Since Yoko Ono had obtained permanent resident status in 1964, he granted her application. But, because he believed that Lennon was an excludable alien, the Immigration Judge denied his application and ordered him deported. The Immigration Judge also held that it was not within his province to review the Director's decision to begin deportation proceedings.

Lennon sought review of the Immigration Judge's decision before the Board of Immigration Appeals. He also began a collateral action in the Southern District in which he sought to enjoin his deportation. He was deserving of this relief, he contended, since the District Director

⁵ The custody fight was—and is—unresolved. The District Court of the Virgin Islands awarded custody of Mrs. Lennon's daughter by her prior marriage to the Lenons in September 1971, *Cox v. Cox*, Civ. 20-1959, *aff'd* 457 F.2d 1190 (1972), but Mrs. Lennon's former husband fled to Texas with the child. A Texas court gave the Lenons custody, but limited its exercise to the territorial limits of the United States. *Cox v. Lennon*, Court of Domestic Relations, Harris County, Texas, No. 876, 663 (1973). Mr. Cox, however, once again promptly absconded with the child.

⁶ In response to Lennon's action in the Southern District, *Lennon v. Richardson*, *supra*, the INS produced records of 1,863 deportable aliens against whom deportation proceedings had not been instituted. Of these, more than 150 involved narcotics convictions. Many aliens granted such status had criminal records far more serious than Lennon's. Some were convicted of murder or rape, and one was described in his file as "an admitted heroin addict" who was reputedly one of the "largest suppliers of marijuana and narcotics in the area." This unsavory alien was not deported because his wife and child were United States citizens. Lennon's child was, of course, an American citizen and, during the hearing, it was discovered that Lennon's wife had obtained permanent residence status in 1964, while married to her first husband.

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and the Immigration Judge had prejudged his case. The INS had, he said, instituted deportation proceedings because they feared he might participate in demonstrations that would be highly embarrassing to the then-existing administration. In January, 1975, Judge Owen denied a government motion for summary judgment. *Lennon v. United States*, 387 F. Supp. 561 (1975).

Meanwhile, on July 10, 1974, the Board filed its decision. The Board conceded that §212(a)(23) does not exclude aliens convicted of possession under laws which make knowledge immaterial to the offense. However, the Board concluded that

a person who was entirely unaware that he possessed any illicit substance would not have been convicted under the [British] Dangerous Drugs Act of 1965. (p. 25)

The Board also held that it was without jurisdiction to consider Lennon's claim that he was improperly denied nonpriority status. Accordingly, the Board concluded that Lennon was ineligible for permanent residence and affirmed the Immigration Judge's deportation order.⁷

It is within the context of these issues that we must decide the merits of this appeal. INA §212(a), 8 U.S.C. §1182(a), provides:

[T]he following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States (23) Any alien who has been convicted of a violation of, or conspiracy to vi-

⁷ After oral argument was heard on this appeal, the INS on September 23, 1975, accorded Lennon "nonpriority status", which is, in effect, an informal administrative stay of deportation. The deportation order, however, remains in effect suspended, and may be executed at any time. The grant of nonpriority status, moreover, does not affect the Board's holding that Lennon is ineligible for permanent residence.

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olate, any law or regulation relating to the illicit possession of or traffic in narcotic drugs or marihuana

The Immigration Judge and the Board of Immigration Appeals believed that Lennon's 1968 conviction made him excludable under this section. We are of the view that it did not. We base this result upon our conclusion that (A) Lennon was convicted under a law which in effect makes guilty knowledge irrelevant and that (B) a foreign conviction for possession of marijuana under such a law does not render the convicted alien excludable.

A. Lack of Knowledge Requirement under British Law in 1968

The language of the British statute under which Lennon was convicted is deceptively simple: "A person shall not be in possession of a drug unless . . . authorized . . ." But, around this concise provision, judicial interpretation has created a scholastic maze as complex and baffling as the labyrinth at Knossos in ancient Crete.

The most authoritative judicial pronouncement on the knowledge requirements of the British act is *Warner v. Metropolitan Police Commissioner*, [1969] 2 A.C. 256, [1968] 2 All E.R. 356. The facts in that case were relatively simple. The luckless Warner was stopped by police while he was driving his van. Inside a box in the back of the vehicle, police found twenty thousand amphetamine tablets. Warner claimed ignorance; he had, he said, been given the parcel by a friend who had told him that it contained perfume, which Warner sold as a sideline. The House of Lords was called upon to decide whether Warner

⁸ Section 3, Dangerous Drugs (No. 2) Regulations. Anyone who violates these regulations is made guilty of a criminal offense by §13 of the Dangerous Drugs Act 1965.

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APPLICATION FOR STATUS AS PERMANENT RESIDENT

<p style="text-align: center;">FEE STAMP</p> <p style="text-align: center; font-size: 2em; font-weight: bold;">IN</p> <p style="text-align: center; font-size: 1.5em; font-weight: bold;">MAY 17 1971</p>	<p>File No. <u>A-758702</u></p> <p>APPLICATION FOR THE BENEFITS OF SECTION:</p> <p><input type="checkbox"/> 203(a)(7) and Sec. 245, I&N Act <input checked="" type="checkbox"/> 245</p> <p><input type="checkbox"/> Sec. 214(d), I&N Act <input type="checkbox"/> 249 I&N Act</p> <p><input type="checkbox"/> Sec. 13, Act of 9/11/57</p>
---	---

(DO NOT WRITE ABOVE THIS LINE.) (SEE INSTRUCTIONS BEFORE FILLING IN APPLICATION. IF YOU NEED MORE SPACE TO ANSWER FULLY ANY QUESTION ON THIS FORM, USE A SEPARATE SHEET AND IDENTIFY EACH ANSWER WITH THE NUMBER OF THE CORRESPONDING QUESTION. FILL IN WITH TYPEWRITER OR PRINT IN BLOCK LETTERS IN INK.)

1. I hereby apply for the status of a lawful permanent resident alien on the following basis: (Check box A, B, C, D, E or F)

An immigrant visa is immediately available to me:

A. As a refugee (Section 203(a)(7) and Section 245, I&N Act).

B. As a former fiancée or fiancé of a U.S. citizen whom I married within 90 days after my arrival in the United States, or as a child of such fiancée or fiancé (Section 214(d), I&N Act).

C. As a former government official, or as a member of the immediate family of such official (Section 13, Act of September 11, 1957).

D. As a person to whom an immigrant visa is immediately available, other than one described above, (Section 245, I&N Act).

E. As a person who has resided in the United States continuously since prior to July 1, 1924 (Section 249, I&N Act).

F. As a person who has resided in the United States continuously since a date on or after July 1, 1924, but before June 30, 1948 (Section 249, I&N Act).

2. My name is (Last in capital letters) LENNON (First Name) John (Middle Name) Winston My alien registration number is A17 597 321 Sex Male Female

3. I reside in the United States at: (Apt. No.) (No. and Street) (City) (State) (ZIP Code)
105 Bank Street New York N.Y.
West 72 St.

4. Date of Birth Oct. 9, 1940 Place of Birth (City or Town) (County, Province, or State) (Country) Liverpool, England I am now a citizen of (Country) England

5. I last arrived in the United States at the port of (City and State) New York, N.Y. on (Month) (Day) (Year) August 13, 1971

by (Name of vessel or other means of travel) TWA 701 as a (visitor, student, exchange visitor, temporary worker, fiancée, fiancé, crewman, parolee, etc.) Visitor, B-2

was inspected. My nonimmigrant visa was issued by the United States Consul at (City) (State) London, England on (Month) (Day) (Year) May 19, 1971

was not inspected.

6. I am single married divorced widowed

a. I have been married two times, including my present marriage, if now married. (If you are now married give the following:)

b. Number of times my spouse has been married three c. Name of spouse Yoko Ono Lennon

d. My spouse resides with me apart from me at Address (Apt. No.) (No. & Street) (Town or City) (Province or State) (Country)
1 West 72 St. 105 Bank Street New York, N.Y. U.S.A.

7. a. I have one children, as follows: (complete all columns as to each child. If child lives with you, state "with me" in last column; otherwise give city and state or country of child's residence.)

Name	Sex	Place of Birth	Date of Birth	Now Living at
<u>Kyoko</u> (step-child) -	<u>F</u>	<u>Tokyo, Japan</u>	<u>8/13/1963</u>	<u>Unknown</u>
<u>Sean Ono</u>	<u>M</u>	<u>New York</u>	<u>10/9/75</u>	<u>with parents</u>

b. The following members of my family are also applying for permanent resident status:

My spouse

8. I have have not heretofore filed an application for the status of a permanent resident. (If you have ever filed such application, give the date and place of filing and final disposition.)

9. I list below all organizations, societies, clubs, and associations, past or present, in which I have held membership in the United States or a foreign country, and the periods and places of such membership. (If you have never been a member of any organization, state "None.")

M, B, E. (Most Excellent Order of the British Empire)

10. APPLICANTS FOR STATUS AS PERMANENT RESIDENTS MUST ESTABLISH THAT THEY ARE ADMISSIBLE TO THE UNITED STATES. EXCEPT AS OTHERWISE PROVIDED BY LAW, ALIENS WITHIN ANY OF THE FOLLOWING CLASSES ARE NOT ADMISSIBLE TO THE UNITED STATES AND ARE THEREFORE INELIGIBLE FOR STATUS AS PERMANENT RESIDENTS:

Aliens who have committed or who have been convicted of a crime involving moral turpitude (does not include minor traffic violations); aliens who have been engaged in or who intend to engage in any commercialized sexual activity; aliens who are or at any time have been, anarchists, or members of or affiliated with any Communist or other totalitarian party, including any subdivision or affiliate thereof; aliens who have advocated or taught, either by personal utterance, or by means of any written or printed matter, or through affiliation with an organization, (i) opposition to organized government, (ii) the overthrow of government by force and violence, (iii) the assaulting or killing of government officials because of their official character, (iv) the unlawful destruction of property, (v) sabotage, or (vi) the doctrines of world communism, or the establishment of a totalitarian dictatorship in the United States; aliens who intend to engage in prejudicial activities or unlawful activities of a subversive nature; aliens who have been convicted of violation of any law or regulation relating to narcotic drugs or marihuana, or who have been illicit traffickers in narcotic drugs or marihuana; aliens who have been involved in assisting any other aliens to enter the United States in violation of law; aliens who have applied for exemption or discharge from training or service in the Armed Forces of the United States on the ground of alienage and who have been relieved or discharged from such training or service.

Do any of the foregoing classes apply to you? Yes No (If answer is Yes, explain)

11. (COMPLETE THIS BLOCK ONLY IF YOU CHECKED BOX "A", "B", "C" or "D" OF BLOCK 1)

APPLICANTS WHO CHECKED BOX "A" "B" "C" OR "D" OF BLOCK 1 (INCLUDING REFUGEES) IN ADDITION TO ESTABLISHING THAT THEY ARE NOT MEMBERS OF ANY OF THE INADMISSIBLE CLASSES DESCRIBED IN BLOCK 10 ABOVE MUST, EXCEPT AS OTHERWISE PROVIDED BY LAW, ALSO ESTABLISH THAT THEY ARE NOT WITHIN ANY OF THE FOLLOWING INADMISSIBLE CLASSES:

Aliens who are mentally retarded, insane, or have suffered one or more attacks of insanity; aliens afflicted with psychopathic personality, sexual deviation, mental defect, narcotic drug addiction, chronic alcoholism or any dangerous contagious disease; aliens who have a physical defect, disease or disability affecting their ability to earn a living; aliens who are paupers, professional beggars or vagrants; aliens who are polygamists or advocate polygamy; aliens who intend to perform skilled or unskilled labor and who have not been certified by the Secretary of Labor (see Instruction 10); aliens likely to become a public charge; aliens who have been excluded from the United States within the past year, or who at any time have been deported from the United States, or who at any time have been removed from the United States at Government expense; aliens who have procured or have attempted to procure a visa by fraud or misrepresentation; aliens who have departed from or remained outside the United States to avoid military service in time of war or national emergency; aliens who are former exchange visitors who are subject to but have not complied with the two year foreign residence requirement.

Do any of the foregoing classes apply to you? Yes No (If answer is Yes, explain)

12.

I do do not intend to seek gainful employment in the United States. If you intend to seek gainful employment in the United States, state the occupation you intend to follow. Self-employed: composer, musician, artist, film-

maker, author, actor

13. (Complete this block only if you checked box A or D of block 1)

- a. I have a priority on the consular waiting list at the American Consulate at _____ as of _____ (City) _____ (Date)
- b. A visa petition according me immediate relative preference status was approved by the district director at New York on filed 3/3/72 Preference petition pending
- c. A visa petition has not been approved in my behalf but I claim eligibility for preference status because my spouse my parent is the beneficiary of a visa petition approved by the district director at _____ on _____ (City and State) _____ (Date)
- d. I am claiming preference status as a refugee under the proviso to Section 203(a)(7) of the Act who has been continuously physically present in the United States for at least the past two years. (If you check this item, you must execute and attach Form I-590A to this application.)
- e. Other (explain) _____

14. (Complete this block only if you checked *B* or *F* of Block 1)

A. I first arrived in the United States at (Port) _____ on (Date) _____ by means of (Name of vessel or other means of travel) _____

I was was not inspected by an immigration officer.

B. I entered the United States under the name (Name at time of entry) _____ and I was destined to (City and State) _____

I was coming to join (Name and relation ship) _____

C. Since my first entry I have have not been absent from the United States. (If you have been absent, attach a separate statement listing the port, date and means of each departure from and return to the United States.)

15. Completed Form G-325A (Biographic Information) is attached as part of this application. Completed Form G-325A (Biographic Information) is not attached as applicant is under 14 years of age.

16. IF YOUR NATIVE ALPHABET IS IN OTHER THAN ROMAN LETTERS, WRITE YOUR NAME IN YOUR NATIVE ALPHABET BELOW:

Signature of Applicant: *Johannes*

Date of Signature: 5/12/72

17. (Signature of person preparing form, if other than applicant.) I declare that this document was prepared by me at the request of the applicant and is based on all information on which I have any knowledge.

Sam Date: 5/12/72

Address of person preparing form, if other than applicant
 515 Madison Avenue
 New York, N.Y. 10022

Occupation: _____

(Application not to be signed below until applicant appears before an officer of the Immigration and Naturalization Service for examination)

I, _____, do swear (affirm) that I know the contents of this application subscribed by me including the attached documents, that the same are true to the best of my knowledge, and that corrections numbered () were made by me or at my request, and that this application was signed by me with my full, true name:

Johannes
 (Complete and true signature of applicant)

Subscribed and sworn to before me by the above-named applicant at New York on 7/27/76
 (Month) (Day) (Year)

Sam
 (Signature and title of officer)

INSTRUCTIONS

Read instructions carefully. Fee will not be refunded.

1. APPLICATION.—A separate application must be executed by each applicant. An application in behalf of a child under 14 years of age shall be executed by the parent or guardian. Form G-325A (Biographic Information) must be completed and submitted with each application if the applicant is 14 years of age or older. Failure to do so delays action and may result in return of the application.
2. FEE.—A fee of \$25 must accompany each application. Read instructions carefully. Fee will not be refunded. All remittances should be made payable to "Immigration and Naturalization Service, Department of Justice," except in Guam they should be made payable to "Treasurer of Guam" and in the Virgin Islands to "Commissioner of Finance, Virgin Islands." If you mail this application, attach money order or check. DO NOT SEND CASH.
3. PHOTOGRAPHS.—You must submit with this application two photographs of yourself taken within 30 days of the date of this application. These photographs must be 1 1/2 by 1 1/2 inches in size, and the distance from the top of head to point of chin should be approximately 1 1/2 inches. They must not be passed on cards or mounted in any way, must be on this paper, have a light background, and clearly show a front view of your face without hat, sunglasses, group, full-length portraits or vesting machine photographs will not be accepted. Using crayon or soft pencil to avoid possible mutilation of the photographs, write your name lightly on the reverse of the photographs.
4. FINGERPRINTS.—A completed fingerprint card must be submitted by each applicant who is 14 years of age or older. Fingerprint cards with instructions for recording your fingerprints are available at any office of the Immigration and Naturalization Service. It is important to furnish all information called for on the card.
5. DOCUMENTS
 - a. General.—All documents must be submitted in the original. If you desire to have the original of any of the other documents returned, and if copies are by law permitted to be made, you may submit photographic or typewritten copies. If you submit copies, the original documents must be presented at the time of your examination. Each foreign document must be accompanied by a translation certified by the translator as to the accuracy of the translation and as to his competency to translate. If you are unable to secure documentary evidence from abroad, you must submit proof of the efforts you have made to secure such documents.
 - b. Submit the following documents only if you checked box "A" or "D" in Block 1 of the application.
 - (1) Record of your birth.
 - (2) A letter from your present employer showing employment of a permanent nature, if you are employed, or an affidavit of support Form I-134 from a responsible person in the United States, or other evidence to establish that you are not likely to become a public charge.
 - (3) If you are the spouse or unmarried minor child of a person who has been granted preference classification by the Immigration and Naturalization Service or has applied for preference classification, and you are claiming the same preference classification, or if you are claiming special immigrant classification as the spouse or unmarried child of a minister of religion who has been accorded or is seeking classification as a special immigrant, submit the following: For the spouse: Marriage certificate and proof of termination of all prior marriages of each spouse. For the child: Marriage certificate of parents, together with proof of termination of their prior marriages, if such documents have not been submitted by a parent.
 - (4) If you are a nonimmigrant foreign government official, a member of the family or servant of such person, or a treaty trader, the spouse or child of such person or a foreign government representative to an international organization, a member of a family or servant of such person, you must submit Form I-509, waiving all rights, privileges, exemptions, and immunities which would otherwise accrue to you by virtue of such status.
 - (5) If you checked box "A" in block 1 of the application, you must execute and attach a single copy of Form I-590A.
 - c. If you checked box "B" in block 1 of the application, submit your marriage certificate if you are the spouse; if you are the child, submit your birth certificate and the marriage certificate for your parent's present marriage.
 - d. If you checked box "E" in block 1 of the application, submit documentary evidence to prove you have resided in the United States continuously since prior to July 1, 1924. If you have checked box "F", submit documentary evidence to prove you have resided in the United States continuously since prior to June 30, 1948.
 - (6) Examples of documents which may be submitted to prove residence are: bankbooks, leases, deeds, licenses, birth records or baptismal records of children born in the United States, census records, affidavits, police records; contracts, postmarked mail addressed to you, rent or tax receipts, purchase installment receipt books or any other type of receipt; school records on the school's stationery showing dates when you entered and left the school and if available, showing the name of parent or guardian and where you resided; employment records on letterhead paper or notecard, showing the employer's title and indicating exact dates of employment and stating if no employment was continuous; insurance records or letters on insurance company stationery showing the name and address of the insured and the date showing the lifetime of the policy; church, union or lodge records on official stationery and bearing the organizational seal, if any, and giving specific dates in their records showing your membership in the organization; letter from business firms on letterhead paper showing specific dates of business dealings with you and indicating your address during the period in question; letters from landlords indicating the

WARNING: If you contemplate departing from the United States to any country, including Canada or Mexico, before a decision is made on your application, you are advised to consult with the Office of the Immigration and Naturalization Service processing your case before departure, since a departure from the United States may result in a denial of your application. If you have not attached the documents called for by the instructions this application will be returned to you.

Severe penalties are provided by law for knowingly and willfully falsifying or concealing a material fact or using any false document in the submission of this application.

10. CERTIFICATION OF THE DEPARTMENT OF LABOR.—This instruction applies to you only if: you checked box "D" of block 1 of the application, and you are performing or seek to perform skilled or unskilled labor, and you are seeking adjustment as a nonpreference alien. You are considered to be a nonpreference alien if you are not the beneficiary of a currently valid petition approved by the Immigration and Naturalization Service to accord you a preference or immediate

9. IMMEDIATE AVAILABILITY OF IMMIGRANT VISA.—Information as to immediate availability of an immigrant visa may be obtained at the nearest office of this Service.

NOTE: If you checked box "B", "C", "E", or "F" of block 1 of this application, instruction 8 does not apply to you. If a visa petition is required to establish immediate relative or preference status, it must have been approved prior to filing this application.

8. IMMEDIATE RELATIVE AND PREFERENCE ALIENS.—If you are the spouse or minor unmarried child of a United States citizen, or if you are the parent of a United States citizen who is at least 21 years of age, you are classifiable as an immediate relative; a visa petition must be filed in your behalf unless you are a United States citizen spouse, parent or son or daughter in unskilled or unskilled labor.

NOTE: If you are ineligible under any of the foregoing but have resided in the United States continuously since prior to June 30, 1948, you may still apply on the form to have a record of lawful admission for permanent residence created under section 249, Immigration and Nationality Act. In such case check box "E" or "D" of block 1.

(a) You entered the United States as a member of the crew of a vessel or aircraft, or were detained in a year or more in the United States as a member of the crew when you arrived in the United States following inspection by a United States immigration officer.

(b) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(c) You were not admitted or paroled into the United States following inspection by a United States immigration officer.

(d) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(e) You entered the United States as a member of the crew of a vessel or aircraft, or were detained in a year or more in the United States as a member of the crew when you arrived in the United States following inspection by a United States immigration officer.

(f) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(g) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(h) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(i) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(j) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(k) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(l) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(m) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(n) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(o) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(p) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(q) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(r) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(s) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(t) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(u) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

(v) You are or have been an exchange alien, subject to, but have not complied with the foreign residence requirement of section 212(c) of the Immigration and Nationality Act and have not been granted a waiver of this requirement. (This ground of ineligibility applies to persons who checked box "A", "B", "C", or "D" of block 1.)

Oppenheim, Appel, Dixon & Co.

Certified Public Accountants

Internationally/Spicer and Oppenheim

One New York Plaza, New York, N.Y. 10004
(212) 422-1000/Telex: 66249/Cable: OPAPDIX
Offices and Associates in Principal Cities

July 16, 1976

To Whom It May Concern:

I am a certified public accountant and a partner in the firm of Oppenheim, Appel, Dixon & Co.

John Lennon has filed all tax returns required for federal, state and city purposes in the United States for the period 1972 through 1974. He presently has a valid extension from the Internal Revenue Service until August 15, 1976 in which to file his 1975 tax return. We are preparing this return and if it is available by August 15 will be filed at such time. In the event such return is not available because of missing information, a further extension until October 15 will be requested.

If you have any questions concerning prior years' returns or the status of the 1975 returns, please do not hesitate to contact us.

Very truly yours,



Donald M. Tannenbaum

mvb

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UNITED STATES DEPARTMENT OF JUSTICE

BOARD OF IMMIGRATION APPEALS
Washington, D.C. 20530

FEB 20 1976

Leon Wildes, Esquire
515 Madison Avenue
New York, New York 10022

LENNON
A17 595 321

1976 FEB 20 AM 9:54
RECEIVED

Reference is made to your interest in the above case.

For your information, there is enclosed herewith copy of the decision and order of the Board of Immigration Appeals.

Sincerely yours,

David L. Milhollan

David L. Milhollan
Chairman

Enclosure

cc: H. Miles Jaffe and
Eve Cary, Esquires

Burt Neuborne, Esquire



United States Department of Justice

Board of Immigration Appeals

Washington, D.C. 20530

FEB 20 1976

File: A17 595 321 - New York

In re: JOHN WINSTON ONO LENNON

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Leon Wildes, Esquire
515 Madison Avenue
New York, New York 10022

H. Miles Jaffe and
Eve Cary, Esquires
New York Civil Liberties Union
84 Fifth Avenue
New York, New York 10011
(Amicus Curiae)

Of counsel:
Burt Neuborne, Esquire
American Civil Liberties Union
22 East 40th Street
New York, New York 10016

CHARGES:

Order: Sec. 241(a)(9), I&N Act (8 U.S.C. 1251
(a)(9)) - Nonimmigrant visitor -
failed to comply with conditions
of such status

Sec. 241(a)(2), I&N Act (8 U.S.C. 1251
(a)(2)) - Nonimmigrant - remained
longer than permitted

APPLICATION: Adjustment of status under section 245,
Immigration and Nationality Act

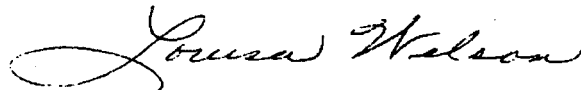
A17 595 321

This case is before us on remand from the United States Court of Appeals for the Second Circuit. The record will be remanded to the immigration judge for further proceedings.

We last rendered a decision in this matter on July 10, 1974, at which time we found the respondent statutorily ineligible for adjustment of status under section 245 of the Immigration and Nationality Act. Our order of that date has been vacated by the October 7, 1975 decision of the Second Circuit. Lennon v. INS, F.2d _____, Civ. No. 74-2189 (2 Cir. October 7, 1975). The Second Circuit disagreed with us and held that the respondent was not precluded from receiving section 245 relief, despite his 1968 conviction for possession of cannabis resin in England.

Neither we nor the immigration judge considered the question of whether the respondent should receive a favorable exercise of discretion on his application for adjustment of status. We shall remand the record to the immigration judge for such consideration.

Order: The record is remanded to the immigration judge for further proceedings.



Acting Chairman

Chairman David L. Milhollan and Board Member Irving A. Appleman abstained from consideration of this case.



United States Department of Justice
Board of Immigration Appeals
Washington, D.C. 20530

FEB 20 1976

File: A17 595 321 - New York

In re: JOHN WINSTON OMO LENNON

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT:

Leon Wildes, Esquire
515 Madison Avenue
New York, New York 10022

H. Miles Jaffe and
Eve Cary, Esquires
New York Civil Liberties Union
84 Fifth Avenue
New York, New York 10011
(Amicus Curiae)

Of counsel:

Burt Neuberger, Esquire
American Civil Liberties Union
22 East 48th Street
New York, New York 10016

CHARGES:

Order: Sec. 241(a)(9), I&N Act (8 U.S.C. 1251
(a)(9)) - Nonimmigrant visitor -
failed to comply with conditions
of such status

Sec. 241(a)(2), I&N Act (8 U.S.C. 1251
(a)(2)) - Nonimmigrant - remained
longer than permitted

APPLICATION: Adjustment of status under section 245,
Immigration and Nationality Act

THIS COPY

A17 595 321

This case is before us on remand from the United States Court of Appeals for the Second Circuit. The record will be remanded to the immigration judge for further proceedings.

We last rendered a decision in this matter on July 10, 1974, at which time we found the respondent statutorily ineligible for adjustment of status under section 245 of the Immigration and Nationality Act. Our order of that date has been vacated by the October 7, 1975 decision of the Second Circuit. Lennon v. INS, F.2d _____, Civ. No. 74-2189 (2 Cir. October 7, 1975). The Second Circuit disagreed with us and held that the respondent was not precluded from receiving section 245 relief, despite his 1968 conviction for possession of cannabis resin in England.

Neither we nor the immigration judge considered the question of whether the respondent should receive a favorable exercise of discretion on his application for adjustment of status. We shall remand the record to the immigration judge for such consideration.

Order: The record is remanded to the immigration judge for further proceedings.

ACTION Chairman

Chairman David L. Milhollan and Board Member Irving A. Appleman abstained from consideration of this case.

Accordingly, the denial of Lennon's application for adjustment of status and the order of deportation are vacated and the case remanded for reconsideration in accordance with the views expressed in this opinion.

MULLIGAN, *Circuit Judge*, (dissenting):

As the majority opinion observes, Lennon's claim that he is the victim of selective prosecution is an issue not before this court but rather is *sub judice* in the Southern District, and therefore we cannot appropriately discuss its merits. The sole issue before us is whether Lennon is an excludable alien under INA § 212(a)(23).

That statute would exclude *any* alien who has been convicted of a violation of *any* law or regulation relating to the illicit possession of narcotic drugs or marihuana. Since the statute applies to any alien it makes no difference whether he be John Lennon, John Doe or Johann Sebastian Bach. Great Britain has made the possession of cannabis resin (marihuana) without authorization illicit (§ 3, Dangerous Drugs (No. 2) Regulations, under the Dangerous Drugs Act 1965). It is further conceded that Lennon pleaded guilty to the possession of that drug on November 28, 1968 and was fined £150. From these premises one would logically conclude that Lennon should be excluded from the United States.

The majority argues however that § 212(a)(23) should not be interpreted to exclude from this country those who are innocently in possession of an illicit drug. I agree but I cannot agree that Lennon was convicted under a statute which imposes "absolute liability" and makes the knowledge of the defendant "irrelevant." The five opinions in *Warner v. Metropolitan Police Commissioner*, [1969] 2 A.C. 256, [1968] 2 All E.R. 356, which interpret the British

statute, are hardly as clear as a mountain lake in spring-time but there is a consensus on basic principles.

Lennon claims here that the drugs were concealed in a binocular case in a closet of his apartment and that he had absolutely no idea of their presence. There is the further suggestion that they may have been "planted" by the arresting constable who it is alleged was at the very least overzealous in prosecuting rock musicians. Assuming that Lennon's version of the facts is accurate, it is my view that he could not have been properly convicted in Great Britain of the offense charged.¹

In *Warne*² Lord Pearce clearly held the view that the Parliament did not intend to impose absolute liability in the Drugs Act of 1965. "It is conceded by the Crown that these words [have in possession] do not include goods slipped into a man's pocket without his knowledge" ([1968] 2 All E.R. at 386). He also quoted with approval the dictum of Lord Parker in *Lockyer v. Gibb* [1967] 2 Q.B. 243, 248 [1966] 2 All E.R. 653, 655:

In my judgment, it is quite clear that a person cannot be said to be in possession of some article which he or

¹ With respect to the arrest, we have no record before us except the memorandum of the conviction which reveals only the conviction and makes no reference to the amount of cannabis resin discovered or the exact place where it was found. The brief submitted by the American Civil Liberties Union on Lennon's behalf before the Bureau of Immigration Appeals states that the drug was found in three different containers in a closet in Lennon's apartment. Although the majority chides me for discussing the facts, I am accepting them as urged in Lennon's brief before this court. There is no admission by Lennon and no contention by the Government that Lennon knew that the illicit drug was physically present in the closet but that he had no idea that it was cannabis resin. Hence Lord Pearce's aspirin-heroin example relied upon by the majority is not relevant. Moreover, it must be understood in the context of his further comment: "On the other hand, I do not think that Parliament intended to make a man guilty of possessing something when he did not know that he had the thing at all." [1968] 2 All E.R. at 388.