

MATTER OF ESPOSITO
In SECTION 223 Proceedings
A-5804401

Decided by Regional Commissioner April 15, 1964

An alien who unlawfully entered this country and remained here in an illegal status is ineligible for a permit to reenter the United States under section 223, Immigration and Nationality Act, since he has not been lawfully admitted to the United States for permanent residence.

This case is here for consideration of the appeal from the denial of the application for a permit to reenter the United States as provided in section 223 of the Immigration and Nationality Act. The District Director, Cleveland, Ohio, denied the application on March 13, 1964, for the reason that the applicant is ineligible for the issuance of a permit to reenter the United States because he has not been lawfully admitted to the United States for permanent residence.

Applicant is a 66-year-old married native and citizen of Italy. This application was filed on September 27, 1963, with the District Director, Cleveland, Ohio, and he subsequently departed from the United States to Italy on October 26, 1963, to join his wife there. He has presented in support of his application a notarized statement in which he admits that he entered the United States unlawfully as a crewman in August, 1962. In that statement he specified that his entry occurred at Niagara Falls, New York, but in a subsequent letter to the District Director he advised that his entry actually occurred at Norfolk, Virginia, where he deserted his vessel on August 31, 1926. In support of his statements concerning his entry into this country, applicant has also submitted an official document from the Captain of the Port, Port of Catania, Italy, which corroborates the applicant's statements concerning his unlawful entry into the United States as a deserting crewman. Applicant has stated further that when he registered under the Alien Registration Act of 1940 and when he applied for a certificate of identification as an enemy alien in 1942, he assumed the identity of a person named Francesco Borsa, since he was afraid to reveal his true identity.

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It is clear on the record that the applicant unlawfully entered the United States and remained here for many years in an illegal status. Having not been lawfully admitted to the United States for permanent residence, he is not eligible for a permit to reenter this country as a returning resident and the application was properly denied. The decision of the District Director will, therefore, be affirmed and the appeal will be dismissed.

ORDER: The decision of the District Director, Cleveland, Ohio, is affirmed and the appeal of the appellant is dismissed.