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8/14/76

APPROVED

AUG 14 1976

THE WHITE HOUSE
WASHINGTON
August 13, 1976

ACTION
Last Day: August 21

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON *Jain*
SUBJECT: H.R. 7494 - Relief of Luigi Santaniello

Posted 8/16/76
authored 8/16/76

Attached for your consideration is H.R. 7494, sponsored by Representative Conte.

The enrolled bill would authorize a visa to be issued to Luigi Santaniello and his admittance to the U.S. for permanent residence notwithstanding his ineligibility under the Immigration and Nationality Act as an alien who has been convicted of a crime of moral turpitude. The bill would limit this exemption to a ground for exclusion known to the Department of State or the Department of Justice prior to enactment.

The beneficiary, a 43-year-old citizen of Italy, was convicted by an Italian court when he was 20 years of age for assault with a dangerous weapon.

OMB, NSC, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 7494 at Tab B.





EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

AUG 12 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 7494 - Relief of Luigi Santaniello
Sponsor - Rep. Conte (R) Massachusetts

Last Day for Action

August 21, 1976 - Saturday

Purpose

To facilitate the admission of Luigi Santaniello to the United States for permanent residence.

Agency Recommendations

Office of Management and Budget	Approval
Immigration and Naturalization Service	Approval
Department of State	No objection

Discussion

The enrolled bill would authorize a visa to be issued to Luigi Santaniello and his admittance to the United States for permanent residence notwithstanding his ineligibility under the Immigration and Nationality Act (INA) as an alien who has been convicted of a crime of moral turpitude. The bill would also limit this exemption to a ground for exclusion known to the Department of State or the Department of Justice prior to enactment.

On December 19, 1967, the beneficiary, a 43-year-old citizen and native of Italy, was refused an immigrant visa under the INA as a result of his conviction by an Italian court in 1953 of assault with a dangerous weapon. At the time of his conviction, for which he received a three month suspended sentence,

the beneficiary was 20 years old. Since then he reputedly has led a model life. Enactment of this bill would allow Mr. Santaniello to join his 70-year-old mother and 2 brothers, all U.S. citizens, in Massachusetts.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
Washington 25, D.C.

PLEASE ADDRESS REPLY TO

OFFICE OF THE COMMISSIONER

11 AUG 1976

AND REFER TO THIS FILE NO.

A18 547 928

TO : OFFICE OF MANAGEMENT AND BUDGET

SUBJECT: Enrolled Private Bill No. H.R. 7494 ; Office of Management
and Budget request dated August 9, 1976.

Beneficiary or Beneficiaries Luigi Santaniello.

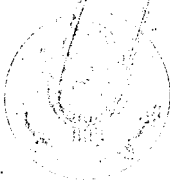
Pursuant to your request for the views of the Department of Justice on the subject bill, a review has been made of the facsimile of the bill, the relating Congressional Committee report or reports, and all pertinent information in the files of the Immigration and Naturalization Service

On the basis of this review the Immigration and Naturalization Service, on behalf of the Department of Justice:

- Recommends approval of the bill
- Interposes no objection to approval of the bill

Sincerely,


Commissioner



DEPARTMENT OF STATE

Washington, D.C. 20520

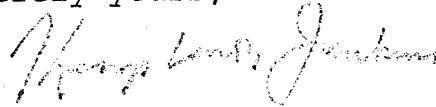
AUG 11 1976

Dear Mr. Lynn:

Reference is made to Mr. Frey's communication of August 9, 1976, transmitting for comment enrolled bills, H.R. 2399, "For the relief of Leonard Alfred Brownrigg", H.R. 7404, "For the relief of Christine Donnelly", and H.R. 7494, "For the relief of Luigi Santaniello".

This Department's files contain no information identifiable with the above cited bills, and in the absence of any derogatory information, this Department has no objection to the enactment of these bills.

Sincerely yours,



Kempton B. Jenkins
Acting Assistant Secretary
for Congressional Relations



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

To-
J. Casanova
8-12-76
6:00 p.m.

AUG 12 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 7494 - Relief of Luigi Santaniello
Sponsor - Rep. Conte (R) Massachusetts

Last Day for Action

August 21, 1976 - Saturday

Purpose

To facilitate the admission of Luigi Santaniello to the United States for permanent residence.

Agency Recommendations

Office of Management and Budget	Approval
Immigration and Naturalization Service	Approval
Department of State	No objection

Discussion

The enrolled bill would authorize a visa to be issued to Luigi Santaniello and his admittance to the United States for permanent residence notwithstanding his ineligibility under the Immigration and Nationality Act (INA) as an alien who has been convicted of a crime of moral turpitude. The bill would also limit this exemption to a ground for exclusion known to the Department of State or the Department of Justice prior to enactment.

On December 19, 1967, the beneficiary, a 43-year-old citizen and native of Italy, was refused an immigrant visa under the INA as a result of his conviction by an Italian court in 1953 of assault with a dangerous weapon. At the time of his conviction, for which he received a three month suspended sentence,



the beneficiary was 20 years old. Since then he reputedly has led a model life. Enactment of this bill would allow Mr. Santaniello to join his 70-year-old mother and 2 brothers, all U.S. citizens, in Massachusetts.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 13

Time: 700pm

FOR ACTION:

Dick Parsons
NSC/S
Max Friedersdorf
Ken Lazarus

cc (for information):

Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: August 13

Time: 200pm

SUBJECT:

H.R. 7494-relief of Luigi Santaniello

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 12

Time: 700pm

FOR ACTION:

Dick Parsons
NSC/S
Max Friedersdorf
Ken Lazarus

cc (for information):

Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: August 13

Time: 200pm

SUBJECT:

H.R. 7494-relief of Luigi Santaniello

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___x For Your Comments

___ Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 12

Time: 700pm

FOR ACTION:

Dick Parsons ✓
NSC/S
Max Friedersdorf
Ken Lazarus

cc (for information):

Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: August 13

Time: 200pm

SUBJECT:

H.R. 7494-relief of Luigi Santaniello

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___x For Your Comments

___ Draft Remarks

REMARKS:

Approve. RB

please return to judy johnston, ground floor west wing

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 12

Time: 700pm

FOR ACTION:

Dick Parsons
NSC/S
Max Friedersdorf
Ken Lazarus →

cc (for information):

Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: August 13

Time: 200pm

SUBJECT:

H.R. 7494-relief of Luigi Santaniello

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

—x For Your Comments

___ Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

No objection.


Ken Lazarus

MEMORANDUM

NATIONAL SECURITY COUNCIL

4621

August 13, 1976

MEMORANDUM FOR: JAMES M. CANNON
FROM: Jeanne W. Da 
SUBJECT: H. R. 7494

The NSC staff concurs with the proposed enrolled bill H. R. 7494-
relief of Luigi Santaniello.

LUIGI SANTANIELLO

JULY 25, 1975.—Committed to the Committee of the Whole House and
ordered to be printed

Mr. EILBERG, from the Committee on The Judiciary,
submitted the following

REPORT

[To accompany H.R. 7494]

The Committee on the Judiciary, to whom was referred the bill (H.R. 7494) for the relief of Luigi Santaniello, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of this bill is to waive the provision of section 212(a) (9) of the Immigration and Nationality Act in behalf of Luigi Santaniello. The bill also provides that this exemption shall apply only to a ground for exclusion known to the Department of State or Justice prior to the enactment of this act.

GENERAL INFORMATION

The beneficiary is a 42-year-old native and citizen of Italy who resides there with his wife and 3 children. He and his immediate family are eligible to fourth preference status and numbers are currently available for them. The beneficiary was found ineligible to receive a visa because of his conviction of assault with a deadly weapon (a hatchet) as a result of a fight with a friend after an argument over wood they had collected. It was a situation of mutual injuries and both participants were charged. Minimum sentence of 3 months plus costs for beneficiary was suspended.

The beneficiary's mother and 2 brothers are citizens and residents of the United States.

A bill for the relief of the same person passed the House of Representatives during the 93d Congress and the following information is reprinted from House Report No. 93-488:

The pertinent facts in this case are contained in reports from the Immigration and Naturalization Service and the Department of State dated September 7, 1971, and April 15, 1972, respectively, which read as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., September 9, 1971.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 9391) for the relief of Luigi Santaniello, there is attached a memorandum of information concerning the beneficiary.

The bill would waive the provision of the Immigration and Nationality Act which excludes from admission into the United States aliens who have been convicted of a crime involving moral turpitude, and would authorize the issuance of a visa to the beneficiary and his admission to the United States for permanent residence, if he is otherwise admissible under that Act. The bill also limits the exemption granted the beneficiary to a ground for exclusion known to the Department of State of the Department of Justice prior to the date of its enactment.

The beneficiary, a native of Italy, is chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

RAYMOND F. FARRELL, *Commissioner.*

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE: H.R. 9391

Information concerning this case was obtained from Mrs. Cristina Santaniello, the mother of the beneficiary.

The beneficiary, Luigi Santaniello, a native and citizen of Italy, was born on November 17, 1932. He lives in Bracigliano, Salerno, Italy with his wife and three children, ages three, five and ten, who also are natives and citizens of Italy. He is employed in Italy as a handyman for different employers. He does not have any sizable amount of assets.

The beneficiary entered the United States on October 23, 1969 at Boston, Massachusetts as a transit without visa. He was involved in an auto accident in Springfield, Massachusetts and was granted to April 30, 1970 to effect his departure from the United States, on which date he departed at Boston, Massachusetts. The beneficiary is excludable from the United States for having been convicted in 1953 in Bracigliano, Salerno, Italy for assault with a dangerous weapon, for which he received a suspended sentence.

The beneficiary's mother was born in Springfield, Massachusetts on April 1, 1906. Her husband, who was a native and citizen of Italy, was deceased in 1949. Two of her sons are United States citizens. They are married and living in Springfield, Massachusetts. The beneficiary's mother was taken back to Italy in 1914 and lived in that country until 1962. She returned to the United States as an Italian citizen, but it has been determined that she never lost her United States citizenship. She has no independent assets and lives with her son Italo who

partially supports her. She has a bi-weekly income of \$60 from Old Age Assistance.

The beneficiary's mother could accord him fourth preference classification upon the filing of a petition for this preference. However, he does not appear eligible for a waiver of the ground of his excludability.

DEPARTMENT OF STATE,
Washington, D.C., April 15, 1972.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: In reference to your request for a report concerning the case of Luigi Santaniello, beneficiary of H.R. 9391, 92d Congress, there is enclosed a memorandum of information concerning the beneficiary. This memorandum has been submitted by the American Consulate General at Naples, Italy, in whose consular jurisdiction the beneficiary resides.

The bill would provide for visa issuance and the beneficiary's admission for permanent residence notwithstanding his ineligibility as an alien who has been convicted of a crime involving moral turpitude, if he is otherwise admissible under the provisions of the Immigration and Nationality Act. The relief to be granted is limited to a ground for exclusion known to the Department of State or the Department of Justice prior to enactment.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

Enclosure: Memorandum.

SUBMITTED BY THE AMERICAN CONSULATE GENERAL AT NAPLES,
ITALY

MEMORANDUM OF INFORMATION CONCERNING H.R. 9391, 92D CONGRESS,
FOR THE RELIEF OF LUIGI SANTANIELLO

Luigi Santaniello was born on November 21, 1932 at Bracigliano, Salerno, Italy. He resides at Via Ortara 69, Bracigliano, Salerno, Italy. He married Carmela De Nardo on April 12, 1959. There were no previous marriages. They have three children: Cristina born on April 16, 1960; Raffaella born on November 27, 1964; and Mafalda born on September 30, 1966. All of the children reside in Italy.

The beneficiary's mother as well as his two brothers reside in the United States. Other than his immediate family, Mr. Santaniello has no close relatives in Italy.

Mr. Santaniello completed five years of public school and is now employed in construction. He was not required to undertake military service. The Consulate General knows of no derogatory information other than that which disqualified him for an immigrant visa under Section 212(a)(9) of the Immigration and Nationality Act.

The beneficiary was refused an immigrant visa on December 19, 1967 under Section 212(a)(9) of the Act as the result of a conviction

by an Italian court in 1953 of assault with a dangerous weapon. He received a suspended sentence of four months. Copies of the record, translation and applicable Italian laws are attached.

Mr. Santaniello is the beneficiary of an approved fourth preference petition. The fourth preference portion of the Italian waiting list is current. He underwent a medical examination on September 17, 1971 and no defects were noted.

(Copy from the original deposited at the record office of the Law Court of Salerno, No. 778/1953. Italian. Republic—in the name of the Italian people—)

In the year 1953 on the second day of the month of May the criminal court of Salerno, 2nd Section, formed by Dr. Martuscelli Mario—Chairman; Dr. Sorgi Paride—Judge; Dr. Cammarano Aristide transcriber, the Public Prosecutor being Dr. Isnardi Giacomo, and with the assistance of the Registrar Mr. Tramontano Giovanni, passed the following sentence in the penal suit brought against: (1) Santaniello Luigi, son of the late Raffaele and of Giordano Cristina, born on 21.11.1932 at Bracigliano and living there; (2) Rocchino Alfonso, son of Alfonso and of Santoro Sabata, born on 12.12.1931 at Bracigliano and living there; free and present. They are charged: the former, with the crime as per articles 582, 585 of the Penal Code for having in Bracigliano on 21.3.1951 caused to the latter personal injuries healed within 10 days; the latter, with the crime as per article 582 of the Penal Code for having in the same circumstances caused to the former personal injuries healed within 10 days. As a result this public debate has been called.

THE FACT AND THE LAW. Following report No. 20, dated 27.3.1951 made by the Police of Bracigliano, and a claim brought on 29.3.1951 by Santaniello Luigi son of the late Raffaele from Bracigliano and a report to the Police—claimed date 16.5.1951 made by Rocchino Alfonso, son of Alfonso; also from Bracigliano, the said Messrs Santaniello and Rocchino were incriminated and remanded to trial to answer of mutual injuries, as specified in the register.

The two had gone to collect wood, and at a locality called "Ponicello" near Bracigliano, the former placed his own bundle on top of the one belonging to the latter. When the latter, i.e. Rocchino, remonstrated a quarrel ensued which soon became a fight, in the course of which Santaniello received injuries to his left leg due to a kick, injuries which healed within 10 days; Rocchino instead received slight injuries to his head and a cut to his head, also healed within 10 days. The first defendant admitted to having caused, some injuries to the other; but he denied having used a hatchet and therefore having caused the cut; the second defendant denied all charges stating he was the only one to have received injuries. The witnesses all confirmed the fact of the fight having taken place. Some also stated they had seen a hatchet in Santaniello's hands. An examination of the wound confirmed at it was a case of serious injury inflicted by Santaniello.

The fight during which Rocchino certainly did in turn hit his opponent, implies that Santaniello's statement concerning the kick and subsequent injuries received, is also believable. It follows therefore that both defendants are to be declared guilty of the charges brought

against them. Due to the slight entity of the damages, the sentence can be restricted to the minimum and general concessions can be granted to Rocchino in consideration of the fact that his opponent caused the quarrel from which the case originated. The sentence is therefore limited to 4 months' prison for Santaniello (3 months' basic prison plus $\frac{1}{3}$) and 2 months' prison for Rocchino (3 months' basic reduced by $\frac{1}{3}$). The former, confiding that he will not commit the offense again, and in consideration of his record, will be granted a suspended sentence. Both defendants will mutually pay the damages, calculated to be a total of L. 23,000 in favour of Rocchino and L. 22,000 in favour of Santaniello; court expenses will also be paid by the defendants P.T.M.

The court, having seen articles 582, 585, 62 bis, 163 and segg. C.P.C. and 483, 487, 488, and 489 C.P.P., declares Santaniello Luigi and Rocchino Alfonso guilty of the charges brought against them and sentences the former to 4 months' prison and the second, with general concessions, to 2 months' prison; also both are sentenced to pay court expenses. Santaniello is sentenced to pay damages to Rocchino in the amount of 23,000 lire, which includes L. 15,000 court expenses and Lawyer's fee. Rocchino is sentenced to pay damages to Santaniello in the amount of L. 22,000, which includes L. 15,000 court expenses and lawyer's fee. The sentence against Santaniello is to be suspended for 5 years under the conditions set by law. Salerno, 2.5.1953.—Signed: Martuscelli Mario, Sorgi Paride, Cammarano Aristide. The Registrar, Tramontano. 4.5.63 Appeal of 2d defendant. With a sentence dated 21.1.1954 the Court of Appeal declares the offence extinguished due to amnesty.

30.1.64. Schedule prepared for a person appealing. The Registrar—signature illegible. The Salerno Law Court, 2d Section with an ordinance dated 13.2.1968 declares ceased, due to amnesty according to the Presidential Decree 19.12.53 No. 922, the penal effects of the sentence pronounced against Santaniello Luigi for the offence of injuries. Salerno, 15.2.68. The Registrar (signed) Marotta True copy requested by Mr. Santaniello Luigi Salerno 18 May 1968.

THE REGISTRAR.

La tradutirier douciliata in Napoli alla Via M. Schipa 61.

LUCIANA LISI.

TESTIMONY OF THE HONORABLE SILVIO O. CONTE BEFORE THE SUBCOMMITTEE ON IMMIGRATION AND NATURALIZATION RE: 7494 FOR THE RELIEF OF LUIGI SANTANIELLO, JUNE 1975

Mr. Chairman, it gives me great pleasure to appear before you and the distinguished members of the subcommittee in support of H.R. 7494.

This bill is for the relief of Luigi Santaniello, which I introduced on May 22, 1975. Mr. Santaniello is a native and resident of Bracigliano P. Salerno, Italy. His mother, Mrs. Christina Santaniello, is a native and resident of Springfield, Mass., although she spent 48 years of her life in Italy. The beneficiary's 2 brothers are U.S. citizens and also reside in Springfield, Mass.

The beneficiary's mother filed a fourth preference petition on his behalf in 1971, but this was denied. The ground for denial was the beneficiary's 1953 conviction of assault with a dangerous weapon, which rendered Mr. Santaniello ineligible for immigrant status by virtue of Sec. 212 (a) (9) of the Immigration and Nationality Act.

The beneficiary committed the offense for which he is considered ineligible in 1953, when he was only 20 years of age. From the information made available to me by the beneficiary's family, the conviction was the result of a fight between the beneficiary and another young man. The second young man subsequently was involved in many such incidents and was ultimately killed by a policeman while committing a crime. While recognizing that this in no way excuses the action of the beneficiary or changes the fact of his conviction, I do feel that the character of the other person involved gives some insight into the incident and serves as an extenuating circumstance. It should also be noted that the beneficiary received a suspended sentence.

Since the time of the beneficiary's conviction he has according to reports from his family, been a model citizen. He married in 1959 and he and his wife have 3 children. He has worked steadily throughout this period.

The beneficiary's mother is now 69 years old. She is extremely desirous of having her third son join the rest of the family in this country. Other than his immediate family, the beneficiary has no close relatives in Italy.

On the basis of the foregoing, I strongly urge that this committee give favorable consideration to this bill. I believe that whatever justification for exclusion may have existed in 1953, subsequent events have shown that the beneficiary falls within the class which deserves special consideration by this Congress.

Thank you Mr. Chairman for your attention to this matter.

BUDGETARY INFORMATION

This legislation does not provide new budget authority and no estimate or comparison has been received from the Director of the Congressional Budget Office.

OVERSIGHT STATEMENT

The committee exercises general oversight jurisdiction with respect to all immigration and nationality matters but no specific oversight is contemplated in this instance.

Upon consideration of all the facts in this case, the committee is of the opinion that H.R. 7494 should be enacted and accordingly recommends that the bill do pass.

Calendar No. 1042

94TH CONGRESS }
2d Session }

SENATE

REPORT
No. 94-1108

LUIGI SANTANIELLO

AUGUST 4, 1976.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 7494]

The Committee on the Judiciary, to which was referred the bill (H.R. 7494), for the relief of Luigi Santaniello, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provision of existing law relating to one who has been convicted of a crime involving moral turpitude in behalf of the son of a United States citizen.

STATEMENT OF FACTS

The beneficiary is a 43-year-old native and citizen of Italy who resides there with his wife and 3 children. He and his immediate family are eligible to fourth preference status and numbers are currently available for them. The beneficiary was found ineligible to receive a visa because of his conviction of assault with a deadly weapon (a hatchet) as a result of a fight with a friend after an argument over wood they had collected. It was a situation of mutual injuries and both participants were charged. Minimum sentence of 3 months plus costs for beneficiary was suspended.

The beneficiary's mother and 2 brothers are citizens and residents of the United States.

Similar bills, H.R. 9391 and H.R. 1466, were introduced in the 91st and 92d Congresses. The following information is reprinted from

House Report 93-488 in connection with H.R. 1466 which passed the House on December 4, 1973:

A letter, with attached memorandum, dated September 9, 1971, to the then Chairman of the House Judiciary Committee from the then Commissioner of Immigration and Naturalization reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., September 9, 1971.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 9391) for the relief of Luigi Santaniello, there is attached a memorandum of information concerning the beneficiary.

The bill would waive the provision of the Immigration and Nationality Act which excludes from admission into the United States aliens who have been convicted of a crime involving moral turpitude, and would authorize the issuance of a visa to the beneficiary and his admission to the United States for permanent residence, if he is otherwise admissible under that Act. The bill also limits the exemption granted the beneficiary to a ground for exclusion known to the Department of State of the Department of Justice prior to the date of its enactment.

The beneficiary, a native of Italy, is chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

RAYMOND F. FARRELL, *Commissioner.*

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND
NATURALIZATION SERVICE FILES RE H.R. 9391

Information concerning this case was obtained from Mrs. Cristina Santaniello, the mother of the beneficiary.

The beneficiary, Luigi Santaniello, a native and citizen of Italy, was born on November 17, 1932. He lives in Bracigliano, Salerno, Italy with his wife and three children, ages three, five and ten, who also are natives and citizens of Italy. He is employed in Italy as a handyman for different employers. He does not have any sizable amount of assets.

The beneficiary entered the United States on October 23, 1960 at Boston, Massachusetts as a transit without visa. He was involved in an auto accident in Springfield, Massachusetts and was granted to April 30, 1970 to effect his departure from the United States, on which date he departed at Boston, Massachusetts. The beneficiary is excludable from the United States for having been convicted in 1953 in Bracigliano, Salerno, Italy for assault with a dangerous weapon, for which he received a suspended sentence.

The beneficiary's mother was born in Springfield, Massachusetts on April 1, 1906. Her husband, who was a native and

citizen of Italy, was deceased in 1949. Two of her sons are United States citizens. They are married and living in Springfield, Massachusetts. The beneficiary's mother was taken back to Italy in 1914 and lived in that country until 1962. She returned to the United States as an Italian citizen, but it has been determined that she never lost her United States citizenship. She has no independent assets and lives with her son Italo who partially supports her. She has a bi-weekly income of \$60 from Old Age Assistance.

The beneficiary's mother could accord him fourth preference classification upon the filing of a petition for this preference. However, he does not appear eligible for a waiver of the ground of his excludability.

A report dated April 15, 1972, from the Department of State reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., April 15, 1972.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: In reference to your request for a report concerning the case of Luigi Santaniello, beneficiary of H.R. 9391, 92d Congress, there is enclosed a memorandum of information concerning the beneficiary. This memorandum has been submitted by the American Consulate General at Naples, Italy, in whose consular jurisdiction the beneficiary resides.

The bill would provide for visa issuance and the beneficiary's admission for permanent residence notwithstanding his ineligibility as an alien who has been convicted of a crime involving moral turpitude, if he is otherwise admissible under the provisions of the Immigration and Nationality Act. The relief to be granted is limited to a ground for exclusion known to the Department of State or the Department of Justice prior to enactment.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

Enclosure: Memorandum, submitted by the American Consulate General at Naples, Italy.

MEMORANDUM OF INFORMATION CONCERNING H.R. 9391, 92D CONGRESS,
FOR THE RELIEF OF LUIGI SANTANIELLO

Luigi Santaniello was born on November 21, 1932 at Bracigliano, Salerno, Italy. He resides at Via Ortara 69, Bracigliano, Salerno, Italy. He married Camela De Nardo on April 12, 1959. There were no previous marriages. They have three children: Cristina born on April 16, 1960; Raffaella born on November 27, 1964; and Mafalda born on September 30, 1966. All of the children reside in Italy.

The beneficiary's mother as well as his two brothers reside in the United States. Other than his immediate family, Mr. Santaniello has no close relatives in Italy.

Mr. Santaniello completed five years of public school and is now employed in construction. He was not required to undertake military service. The Consulate General knows of no derogatory information other than that which disqualified him for an immigrant visa under Section 212(a) (9) of the Immigration and Nationality Act.

The beneficiary was refused an immigrant visa on December 19, 1967 under Section 212(a) (9) of the Act as the result of a conviction by an Italian court in 1953 of assault with a dangerous weapon. He received a suspended sentence of four months. Copies of the record, translation and applicable Italian laws are attached.

Mr. Santaniello is the beneficiary of an approved fourth preference petition. The fourth preference portion of the Italian waiting list is current. He underwent a medical examination on September 17, 1971, and no defects were noted.

(Copy from the original deposited at the record office of the Law Court of Salerno, No. 778/1953. Italian Republic—in the name of the Italian people.)

In the year 1953 on the second day of the month of May the criminal court of Salerno, 2nd Section, formed by Dr. Martuscelli Mario—Chairman; Dr. Sorgi Paride—Judge; Dr. Cammarano Aristide transcriber, the Public Prosecutor being Dr. Isnardi Giacomo, and with the assistance of the Registrar Mr. Tramontano Giovanni, passed the following sentence in the penal suit brought against: (1) Santaniello Luigi, son of the late Raffaele and of Giordano Cristina, born on 21.11.1932 at Bracigliano and living there; (2) Rocchino Alfonso, son of Alfonso and of Santoro Sabata, born on 12.12.1931 at Bracigliano and living there; free and present. They are charged: the former, with the crime as per articles 582, 585 of the Penal Code for having in Bracigliano on 21.3.1951 caused to the latter personal injuries healed within 10 days; the latter, with the crime as per article 582 of the Penal Code for having in the same circumstances caused to the former personal injuries healed within 10 days. As a result this public debate has been called.

The fact and the law: Following report No. 20, dated 27.3.1951 made by the Police of Bracigliano, and a claim brought on 29.3.1951 by Santaniello Luigi son of the late Raffaele from Bracigliano and a report to the Police—claimed date 16.5.1951 made by Rocchino Alfonso, son of Alfonso; also from Bracigliano, the said Messrs Santaniello and Rocchino were incriminated and remanded to trial to answer of mutual injuries, as specified in the register.

The two had gone to collect wood, and at a locality called "Pon-ticello" near Bracigliano, the former placed his own bundle on top of the one belonging to the latter. When the latter, i.e. Rocchino, remonstrated a quarrel ensued which soon became a fight, in the course of which Santaniello received injuries to his left leg due to a kick injuries which healed within 10 days; Rocchino instead received slight injuries to his head and a cut to his head, also healed within 10 days. The first defendant admitted to having caused, some injuries to the other, but he denied having used a hatchet and therefore having caused the cut; the second defendant denied all charges stating he was the only one to have received injuries. The witnesses all confirmed the fact of the fight having taken place. Some also stated they had seen a

hatchet in Santaniello's hands. An examination of the wound confirmed that it was a case of serious injury inflicted by Santaniello.

The fight during which Rocchino certainly did in turn hit his opponent, implies that Santaniello's statement concerning the kick and subsequent injuries received, is also believable. It follows therefore that both defendants are to be declared guilty of the charges brought against them. Due to the slight entity of the damages, the sentence can be restricted to the minimum and generical concessions can be granted to Rocchino in consideration of the fact that his opponent caused the quarrel from which the case originated. The sentence is therefore limited to 4 months' prison for Santaniello (3 month's basic prison plus one-third and 2 months' prison for Rocchino (3 month's basic reduced by one-third. The former, confiding that he will not commit the offense again, and in consideration of his record, will be granted a suspended sentence. Both defendants will mutually pay the damages, calculated to be a total of L.23.000 in favour of Rocchino and L.22.000 in favour of Santaniello; court expenses will also be paid by the defendants P.T.M.

The court, having seen articles 582, 585, 62 bis, 163 and segg. CPC and 483, 487, 488, and 489 C.P.P., declares Santaniello Luigi and Rocchino Alfonso guilty of the charges brought against them and sentences the former to 4 months' prison and the second, with generical concessions, to 2 months' prison; also both are sentenced to pay court expenses. Santaniello is sentenced to pay damages to Rocchino in the amount of 23.000 lire, which includes L. 15.000 court expenses and Lawyer's fee. Rocchino is sentenced to pay damages to Santaniello in the amount of L. 22.000, which includes L. 15.000 court expenses and lawyer's fee. The sentence against Santaniello is to be suspended for 5 years under the conditions set by law. Salerno, 2.5.1953.—Signed: Martuscelli Mario, Sorgi Paride, Cammarano Aristide. The Registrar, Tramontano. 4.5.63 Appeal of 2d defendant. With a sentence dated 21.1.1954 the Court of Appeal declares the offence extinguished due to amnesty.

30.1.64. Schedule prepared for a person appealing. The Registrar—signature illegible. The Salerno Law Court, 2d Section with an ordinance dated 13.2.1968 declares ceased, due to amnesty according to the Presidential Decree 19.12.53 No. 922, the penal effects of the sentence pronounced against Santaniello Luigi for the offence of injuries. Salerno, 15.2.68. The Registrar (signed) Marotta True copy requested by Mr. Santaniello Luigi Salerno 18 May 1968.

THE REGISTRAR.

La traduttrier douciliata in Napoli alla Via M. Schipa 61.

LUCIANA LISI.

Congressman Silvio O. Conte, the author of the bill, delivered the following testimony concerning H.R. 7494:

Mr. Chairman, it gives me great pleasure to appear before you and the distinguished members of the subcommittee in support of H.R. 7494.

This bill is for the relief of Luigi Santaniello, which I introduced on May 22, 1975. Mr. Santaniello is a native and resident of Bracigliano P. Salerno, Italy. His mother, Mrs.

Christina Santaniello, is a native and resident of Springfield, Mass., although she spent 48 years of her life in Italy. The beneficiary's 2 brothers are U.S. citizens and also reside in Springfield, Mass.

The beneficiary's mother filed a fourth preference petition on his behalf in 1971, but this was denied. The ground for denial was the beneficiary's 1953 conviction of assault with a dangerous weapon, which rendered Mr. Santaniello ineligible for immigrant status by virtue of Sec. 212(a) (9) of the Immigration and Nationality Act.

The beneficiary committed the offense for which he is considered ineligible in 1953, when he was only 20 years of age. From the information made available to me by the beneficiary's family, the conviction was the result of a fight between the beneficiary and another young man. The second man subsequently was involved in many such incidents and was ultimately killed by a policeman while committing a crime. While recognizing that this in no way excuses the action of the beneficiary or changes the fact of his conviction, I do feel that the character of the other person involved gives some insight into the incident and serves as an extenuating circumstance. It should also be noted that the beneficiary received a suspended sentence.

Since the time of the beneficiary's conviction he has according to reports from his family, been a model citizen. He married in 1959 and he and his wife have 3 children. He has worked steadily throughout this period.

The beneficiary's mother is now 69 years old. She is extremely desirous of having her third son join the rest of the family in this country. Other than his immediate family, the beneficiary has no close relatives in Italy.

On the basis of the foregoing, I strongly urge that this committee give favorable consideration to this bill. I believe that whatever justification for exclusion may have existed in 1953, subsequent events have shown that the beneficiary falls within the class which deserves special consideration by this Congress.

Thank you Mr. Chairman for your attention to this matter.

The committee, after consideration of all the facts in the case, is of the opinion that the bill, H.R. 7494, should be enacted.

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Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

For the relief of Luigi Santaniello.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(9) of the Immigration and Nationality Act, Luigi Santaniello may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of the Act.*

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*