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U.S. Department of Justice  
Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



Public Copy

FILE: [Redacted] Office: Miami Date: MAR 12 2001

IN RE: Applicant: [Redacted]

APPLICATION: Application for Permanent Residence Pursuant to Section 1 of the Cuban Adjustment Act of November 2, 1966 (P.L. 89-732)

IN BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

Identification data deleted to prevent clearly unwarranted invasion of personal privacy.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, Acting Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Miami, Florida, who certified his decision to the Associate Commissioner, Examinations, for review. The case will be remanded to the district director for further action.

The applicant is a native and citizen of Cuba who is seeking to adjust her status to that of a lawful permanent resident of the United States.

The district director determined that the applicant was not eligible for adjustment of status under section 1 of the Cuban Adjustment Act of November 2, 1966, because she was not inspected and admitted or paroled into the United States. The district director, therefore, denied the application.

In response to the notice of certification, the applicant states that on June 26, 1998, she submitted an application for adjustment of status to permanent residence under section 202 of Public Law 105-100 of the Nicaraguan Adjustment and Central American Relief Act (NACARA Act), and that she advised the interviewing officer that she was applying under the NACARA Act.

A review of the application for permanent residence (Form I-485) shows that the applicant checked item "h" of Part 2, "Other-explain," and added: "the law has changed and as a Cuban citizen residing in the country since 1988, I am entitled to amnesty." Item "e" (section 1 of the Cuban Adjustment Act) was not checked by the applicant.

Accordingly, the case will be remanded in order that the district director may readjudicate the application for adjustment of status under section 202 of the NACARA Act. The director shall enter a new decision which, if adverse to the applicant, is to be certified to the Associate Commissioner, Examinations, for review.

**ORDER:** The director's decision is withdrawn. The case is remanded for appropriate action consistent with the above discussion and entry of a new decision.