



A2

U.S. Department of Justice

Immigration and Naturalization Service

Deleting data deleted to
prevent clearly unwarranted
invasion of personal privacy



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

FILE:

Office: Miami

Date: AUG 04 2002

IN RE: Applicant:

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

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that 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 that 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, 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 district director's decision will be affirmed.

The applicant is a native and citizen of Cuba who filed this application for adjustment of status to that of a lawful permanent resident under section 1 of the Cuban Adjustment Act of November 2, 1966. This statute provides for the adjustment of status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959, and has been physically present in the United States for at least one year, to that of an alien lawfully admitted for permanent residence if the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence.

The district director denied the application after determining that the applicant was inadmissible to the United States pursuant to section 212(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(1)(A)(iii), and that the applicant had failed to submit a waiver of grounds of inadmissibility as had been requested. The district director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application.

The applicant has provided no statement or additional evidence on notice of certification.

Section 212(a)(1)(A) of the Act states, in part:

(iii) Any alien who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services in consultation with the Attorney General)--

(I) to have a physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others....

is inadmissible to the United States.

The record reflects that on January 11, 2002, the Centers for Disease Control and Prevention (CDC) determined that the applicant suffers from Schizoaffective Disorder (295.70), that there is a history of associated harmful behavior which is judged as likely to recur, that he is classified as Class A and inadmissible to the United States pursuant to section 212(a)(1)(A)(iii) of the Act, and that a waiver of inadmissibility will be required for adjustment of status.

On January 30, 2002, the applicant was advised of the findings of the CDC and of his eligibility to file a waiver of inadmissibility (I-601 waiver). The applicant, however, did not respond to this notice.

It is concluded that the applicant is inadmissible to the United States pursuant to section 212(a)(1)(A)(iii) of the Act. The applicant was offered an opportunity to submit evidence in opposition to the district director's findings. No additional evidence has been entered into the record. Nor did the applicant file a waiver of inadmissibility as had been requested by the director.

The applicant is ineligible for adjustment of status to permanent residence pursuant to section 1 of the Act of November 2, 1966. The decision of the district director to deny the application will be affirmed.

ORDER: The district director's decision is affirmed.