



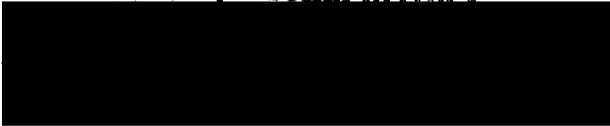
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U.S. Department of Justice

Immigration and Naturalization Service

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

FILE:



Office: Miami

Date:

10 DEC 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

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 Acting District Director, Miami, Florida, who certified his decision to the Associate Commissioner, Examinations, for review. The acting 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 acting district director determined that the applicant was inadmissible to the United States because she falls within the purview of sections 212(a)(6)(C)(i) and 212(a)(6)(C)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(6)(C)(i) and 1182(a)(6)(C)(ii). The acting 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)(6)(C) of the Act states, in part:

(i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or entry into the United States or other benefit provided under this Act is inadmissible.

(ii) Any alien who falsely represents, or has falsely represented, himself or herself to be citizen of the United States for any purpose or benefit under this Act is inadmissible.

The record reflects that on December 26, 1999, at Miami International Airport in Florida, the applicant was encountered by members of the Terrorist, Drugs and Fraud (TDF) team while she was coming off her flight. The TDF inspector noticed inconsistencies with the passport the applicant presented, and she was asked her nationality. The applicant responded that she was a United States citizen. The passport was returned to the applicant and she was presented for primary inspection. At primary inspection, she presented a U.S. passport and applied for admission as a returning



United States citizen. The applicant was, therefore, referred to the Service "hard secondary" inspection.

In a sworn statement before an officer of the Service, the applicant admitted her true identity and stated that she was a citizen of Cuba and requested political asylum. She stated that she met with the smuggler in November, and gave him the photographs that were used in the U.S. passport she presented. She further stated that she did not pay for the passport since the smuggler was to call her when she got to the United States. The applicant was detained for a hearing before an immigration judge after it was determined that she was inadmissible to the United States pursuant to sections 212(a)(6)(C)(ii) and 212(a)(7)(A)(i)(I) of the Act.

As determined by the acting district director, it is concluded that the applicant is inadmissible to the United States pursuant to sections 212(a)(6)(C)(i) and 212(a)(6)(C)(ii) of the Act. The applicant was offered an opportunity to submit evidence in opposition to the acting district director's findings of inadmissibility. No additional evidence has been entered into the record.

In view of the foregoing, 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 acting district director to deny the application will be affirmed.

ORDER: The acting district director's decision is affirmed.