



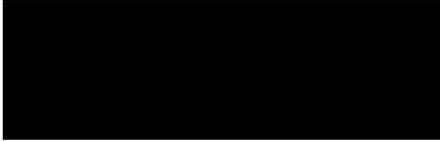
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U.S. Department of Justice

Immigration and Naturalization Service

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invasion of personal privacy~~

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



FILE: 

Office: Newark

Date: 15 FEB 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:

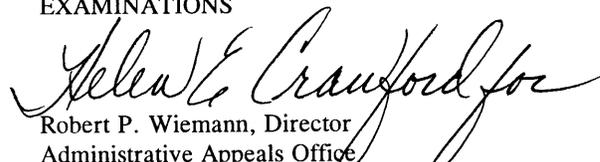
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

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.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Newark, New Jersey, 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 Act 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 determined that the applicant failed to submit additional evidence as had been requested. The district director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application.

In response to the notice of certification, the applicant submits additional evidence.

The district director noted that the applicant was requested on September 30, 1999, to submit a copy of his birth certificate with an English translation, and a completed medical examination report. Because the applicant, in response, furnished only the English translation without the Cuban birth certificate and his medical examination report without the required vaccination supplement, the district director denied the application.

In response to the notice of certification, the applicant submits his Cuban birth certificate with an English translation. However, he failed to submit the required vaccination supplement.

Section 212(a)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(1), provides that aliens inadmissible and ineligible to receive visas and ineligible to be admitted to the United States include:

(A)(ii) Any alien who seeks admission as an immigrant, or who seeks adjustment of status to the status of an alien lawfully admitted for permanent residence, and who has failed to present documentation of having received vaccination against vaccine-preventable diseases, which shall include at least the following diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis B, and any other vaccinations against vaccine-preventable diseases

recommended by the Advisory Committee for Immunization Practices...

The record shows that the vaccination supplement, attached to the applicant's medical examination report (Form I-693), was not completed by the examining physician. Nor did the applicant present documentation of having received vaccination against vaccine-preventable diseases. The applicant, on notice of certification, was extended an opportunity to provide the required document. The record reflects that the document has not been supplied.

Pursuant to section 291 of the Act, the burden of proof is upon the applicant to establish that he is eligible for adjustment of status. He has failed to meet that burden. Therefore, the decision of the district director to deny the application will be affirmed.

ORDER: The district director's decision is affirmed.