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U.S. Department of Justice  
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS

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



28 MAY 2002

FILE:



Office: Miami

Date:

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:



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*  
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 determined that the applicant was inadmissible to the United States because he falls within the purview of section 212(a)(6)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(6)(C). 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)(6)(C) of the Act states in part:

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.

The application for adjustment of status, filed on January 4, 2000, shows that the applicant entered the United States with a visitor's visa at the J.F.K. Airport in New York City, New York, on September 8, 1984, and that he was inspected by a Service officer upon entry. The record, however, does not contain any evidence to show that the applicant was in fact inspected upon entry.

The record of proceeding contains the Record of Deportable Alien (Form I-213) issued on September 27, 1984, reflecting that the applicant entered the United States without inspection on September 8, 1984. The Form I-213 also shows that the applicant claimed to have presented a fraudulent Venezuelan document upon entry. The form further shows that the applicant claimed to have paid \$1,000 per person (3 individuals) to obtain the fraudulent passports for himself and his family; however, he does not know the name of the person who issued him the passports.

The record of proceeding further contains the applicant's sworn statement dated June 27, 1994, stating:

1. I am a Cuban national.
2. I entered the United States on 09-08-84, utilizing a passport [Venezuela].
3. Upon entering the United States, I was inspected and admitted.
4. Later I submitted an I-589 stating that I had entered without inspection; this was a misstatement. I submitted my I-589 shortly after entering the United States and did not fully understand what was listed in Form I-589....

Based on the applicant's sworn statement admitting that he was inspected and admitted into the United States by utilizing a fraudulent Venezuelan passport, it is, therefore, concluded that the district director correctly found the applicant inadmissible to the United States pursuant to section 212(a)(6)(C) of the Act. The applicant was offered an opportunity to submit evidence in opposition to the district director's findings of inadmissibility. No additional evidence has been entered into the record. Further, the applicant is not the recipient of an approved waiver of such grounds of inadmissibility, nor is there evidence in the record that he is eligible to file for a waiver.

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 district director to deny the application will be affirmed.

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