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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: [Redacted]

Office: Miami

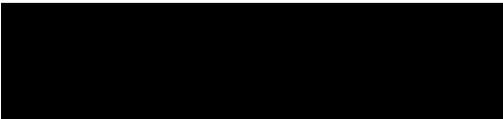
Date: OCT 30 2002

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:



**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 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 Peru 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, in pertinent part:

[T]he 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, may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien makes an application for such adjustment, and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence. The provisions of this Act shall be applicable to the spouse and child of any alien described in this subsection, regardless of their citizenship and place of birth, who are residing with such alien in the United States.

The acting district director determined that the applicant did not qualify for adjustment of status as the spouse of a lawful permanent resident who adjusted under section 1 of the Act. He based his determination on the evidence of record which reflects that the lawful permanent resident status of the applicant's spouse [REDACTED] was revoked and he was ordered removed from the United States on January 29, 2002. The acting district director, therefore, denied the application.

In response to the notice of certification, the applicant asserts that her husband was informed by an agent of the Service that in January of next year, he may reapply for permanent residence.

The record reflects that on March 2, 2000, at Naples, Florida, the applicant married [REDACTED] a native and citizen of Cuba, and a lawful permanent resident of the United States. Based on that marriage, on June 1, 2000, the applicant filed for adjustment of status under section 1 of the Cuban Adjustment Act.

At an interview regarding her application for adjustment of status on April 3, 2002, the applicant appeared without her husband. The applicant advised the interviewing officer that her husband was in jail. The record reflects that [REDACTED] was ordered removed from the United States by an immigration judge on January 29, 2002.

The Board, in Matter of Quijada-Coto, 13 I&N Dec. 740 (BIA 1971), held that adjustment of status to that of a permanent resident pursuant to the provisions of the Act of November 2, 1966, is not available to the spouse of an alien described in section 1 of the Act, where the alien himself has been denied adjustment of status under the Act. The record, in this case, reflects that the lawful permanent resident status of the applicant's spouse was revoked and he was ordered removed from the United States on January 29, 2002.

The applicant asserts that [REDACTED] will reapply for adjustment of status under section 1 of the Act in January 2003. If it is determined, at that time, that [REDACTED] is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, the applicant is not precluded from filing a new application for adjustment of status under section 1 of the Act.

Accordingly, 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.