

A2

U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

PUBLIC COPY

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS AAO, 20 Mass. Ave., 3/F
Washington, D.C. 20536



FILE:  Office: Texas Service Center

Date: APR 29 2003

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)

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

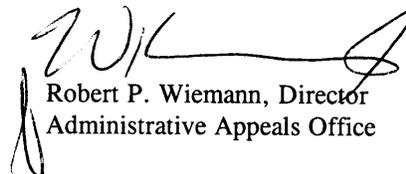
**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

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 Bureau of Citizenship and Immigration Services (Bureau) 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.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, who certified her decision to the Administrative Appeals Office for review. The 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 director determined that the applicant was ineligible for adjustment of status to permanent residence because he is inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i). The director, therefore, denied the application.

In response to the notice of certification, the applicant states that it is true he used another identity to board a plane in Spain to the United States, but that the only difference was he told the truth to the authorities because he did not want to start his life in the United States by lying.

Section 212(a)(6)(C)(i) 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 admission into the United States or other benefit provided under this Act is inadmissible.

Section 212(a)(7) of the Act states in part:

(A)(i) Except as otherwise specifically provided in this Act, any immigrant at the time of application for admission --

(I) who is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality if such document is required under

the regulations issued by the Attorney General under section 211(a), is inadmissible.

The record reflects that on August 24, 2001, at Miami International Airport in Florida, the applicant attempted to gain entry into the United States by presenting a Spanish passport belonging to another person into which his photograph had been substituted. With the fraudulent passport, the applicant presented himself for inspection before a Bureau officer as a visitor under the Visa Waiver Program. He was referred to secondary inspection for examination of the document to determine the authenticity of the passport, and he was subsequently searched. The applicant, at that point, stated his true name, presented his Cuban passport, and stated that his true intentions were to stay in the United States and work. He further stated that he paid 250,000 pesetas (approximately \$2,500 USD) to a man in Madrid for the purchase of the passport, and that he knew it was illegal to attempt entry into the United States with fraudulent documents. The applicant was detained for a hearing before an immigration judge after it was determined that he was inadmissible to the United States under the provisions of sections 212(a)(6)(C)(i) and 212(a)(7)(A)(i)(I) of the Act.

The applicant asserts that he "said the truth to the [A]merican authorities because I did not want to start my life in the United States lying, while others [C]ubans do not say the truth." However, unlike the alien in *Matter of Y-G*, 20 I&N Dec. 794 (BIA 1994), where he promptly provided his true name to the immigration inspectors, the applicant, in the present case, did not immediately confess his true name and identity and that he was not a citizen of Spain. Rather, the applicant initially sought to procure admission into the United States by fraud or willful misrepresentation by presenting the fraudulent passport to a U.S. government official in an attempt to enter under the Visa Waiver Program. It was not until he was taken to secondary inspection and was searched that he admitted that he is a Cuban citizen.

Accordingly, the applicant is inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act. 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 resident pursuant to section 1 of the Act of November 2, 1966. The decision of the director to deny the application will be affirmed.

ORDER: The director's decision is affirmed.