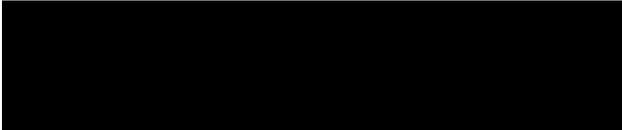


U.S. Department of Homeland Security
Citizenship and Immigration Services

A2

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536



FILE:



Office: Texas Service Center

Date:

DEC 3 - 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)

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 Citizenship and Immigration Services (CIS) 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 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 director determined that the applicant failed to submit additional evidence, as had been requested. The 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's mother states that on three occasions she sent to the Service a record from the Juvenile Division of Collier County Court House, Florida. She claims that she tried to obtain the applicant's police report from the sheriff's office, but they refused because the applicant is a minor. She states that her son was born on October 21, 1985, he is a Cuban citizen who was paroled into the United States, he has been physically present in this country for more than one year, and he has never been arrested, cited, or convicted of any crime.

The record shows that the applicant was requested on April 12, 2002, on June 1, 2002, on July 11, 2002, on August 1, 2002, and again on October 15, 2002, to submit a letter of clearance from the police department or sheriff's office of all places where he has resided for more than six months. He was advised that letters from a court or anywhere else cannot be accepted. The director noted that in response to his requests, the applicant furnished letters from a local court.

In response to the notice of certification, the applicant's mother again furnished a copy of the letter of clearance from the Clerk of the Circuit Court, Collier County Courthouse, indicating that the applicant has no record of arrest and/or conviction in the

Juvenile Division, Collier County, Florida. She also submits a receipt issued by the Collier County Sheriff's Office on December 20, 2002, for a request for records check regarding the applicant. While the applicant's mother claims that the sheriff's office refused to issue a letter of clearance because the applicant is a minor, she failed to provide a written affirmation from the sheriff's office to support her claim that the sheriff's office refused to issue the letter of clearance.

Pursuant to section 291 of the Immigration and Nationality Act, 8 U.S.C. § 1361, 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 director to deny the application will be affirmed.

ORDER: The director's decision is affirmed.