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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:

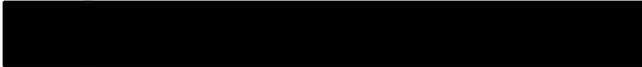


Office: Miami

Date:

JAN 30 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

Reasons cited related to
preve.
invasion of personal privacy

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 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 acting district director determined that the applicant was inadmissible to the United States because she fell 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), for having attempted to procure admission into the United States by fraud or willful misrepresentation. The acting district director 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)(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 entry 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 March 4, 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 her photograph had been inserted. She was referred to Secondary inspection for examination of the document to determine its authenticity. In Secondary, the document was determined to be counterfeit. When confronted with the findings, the applicant admitted that her purpose in attempting to enter the United States was to live and work; she requested political asylum.

The applicant was referred to Expedited Removal for processing, where she provided a sworn statement. In her statement the applicant admitted that she paid 150,000 pesetas to a friend in Spain to purchase the passport, and that she knew that it was illegal to attempt entry into the United States with fraudulent documents. The applicant stated that the only reason she was requesting asylum was because she was caught with the bad passport, otherwise, she would have returned to Spain. The applicant was detained for a hearing before an immigration judge after it was determined that she 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.

Accordingly, the applicant is 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 acting district director's findings. No additional evidence has been entered into the record. Further, there is no evidence in the record that the applicant is eligible to file a waiver of this ground of inadmissibility as she does not appear to have a qualifying relative.

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 acting district director to deny the application will be affirmed.

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