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U.S. Department of Justice
Immigration and Naturalization Service

PUBLIC COPY

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



FILE: [Redacted] Office: Texas Service Center

Date: JAN 30 2003

IN RE: Applicant: [Redacted]

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

*identifying data deleted to
prevent identity and
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 Director, Texas Service Center, who certified his decision to the Associate Commissioner, Examinations, for review. The director's decision will be withdrawn, and the application will be approved.

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 submits additional evidence.

The record reflects that on March 14, 2002, the director denied the application due to abandonment because the applicant failed to submit a police clearance letter, a completed I-693 Medical Examination form, and an I-693 Supplement for Immunizations, as requested on July 2, 2001, and on October 23, 2001. On June 24, 2002, the director again denied the application based on abandonment because the applicant did not respond to two Service requests for evidence. The director advised the applicant that the June 24th denial replaced the previous denial with no substantive changes in the reasons for the denial. He further stated that the case was being certified to the Administrative Appeals Office (AAO).

The director again denied the application on September 16, 2002, based on a motion to reopen or reconsider received by the Service on May 24, 2002. The director advised the applicant to send a copy of the motion and supporting documents to the AAO. The motion to reopen with supporting documents is now contained in the record of proceeding.

The applicant submits (1) a letter of clearance from the Metro-Dade Police Department, Dade County, Florida, (2) a completed I-693 Medical Examination form, and (3) an I-693 Supplement for Immunizations.

As all requested documents have been submitted and the grounds of ineligibility present in this case have now been overcome, it is concluded that the applicant has established that she is eligible for adjustment of status to permanent residence pursuant to section 1 of the Act of November 2, 1966, and warrants a favorable exercise of discretion.

Accordingly, the director's decision will be withdrawn, and the application will be approved.

ORDER: The director's decision is withdrawn. The application is approved.