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

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

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



FILE:



Office: Miami

Date:

~~MAY 19 2003~~

IN RE: Applicant:



MAY 20 2003

APPLICATION: Application for Permanent Residence Pursuant to Section 1 of the Cuban Adjustment Act of  
November 2, 1966 (P.L. 89-732)

**PUBLIC COPY**

ON BEHALF OF APPLICANT:



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 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 Acting District Director, Miami, Florida, who certified his decision to the Administrative Appeals Office for review. The acting district director's decision will be affirmed.

The applicant, a native of Brazil and claiming to be a citizen of Cuba, filed this application for adjustment of status to that of a lawful permanent resident under section 1 of the Cuban Adjustment Act (CAA) 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 acting district director determined that the applicant was not eligible for adjustment of status, pursuant to section 1 of the CAA, because she has not met her burden in establishing that she is a citizen of Cuba. The acting district director, therefore, denied the application.

The applicant has provided no statement or additional evidence on notice of certification.

The record reflects that the applicant was born on July 13, 1974, in Rio de Janeiro, Brazil, to a Uruguayan father and mother who claims Cuban nationality. The applicant entered the United States with a Brazilian passport on July 11, 1991, as a B-2 nonimmigrant visitor.

The applicant subsequently obtained a Cuban birth certificate issued on August 19, 1999. The birth certificate indicates that the applicant's mother [REDACTED] is a native of Cuba. A birth certificate previously submitted to the record, however, reflects that the applicant's mother was born in Santiago, Chile, on December 30, 1947.

The acting district director determined that the applicant's birth certificate was not acceptable evidence of Cuban citizenship as it does not state that the applicant is a citizen of Cuba. He stated that the Service is not in the position to decide what constitutes Cuban citizenship; that is the role of the Cuban government. The acting district director further determined that the applicant had

not provided any official document from the appropriate Cuban authorities, such as a passport or certificate of citizenship, recognizing her as a Cuban citizen.

The record, as presently constituted, is insufficient to establish that the applicant is a citizen of Cuba. In fact, the applicant holds a Brazilian passport, and she was admitted into the United States with that passport. Accordingly, as determined by the acting district director, the applicant has not met her burden in establishing that she is a citizen of Cuba.

It is, therefore, concluded that 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.