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U.S. Department of Homeland Security

Citizenship and Immigration Services

PUBLIC COPY

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



FILE:



Office: Miami

Date:

NOV 13 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:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 (AAO) 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 (CAA) 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 falls within the purview of section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i). The acting district director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application.

In response to the notice of certification, counsel requests that the AAO revoke the decision made by the director and grant the applicant a waiver of inadmissibility in order to allow the applicant to adjust her status under section 1 of the CAA.

Section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), 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, 8 U.S.C. § 1182(a)(7), 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 May 25, 1996, at Miami International Airport in Florida, the applicant attempted to gain entry into the United States by presenting an immigrant visa packet, IV-9278240, classification F1-1. The visa was determined by the Service to be fraudulent. In a sworn statement before an officer of the Service, the applicant admitted that she paid \$3000 U.S. dollars for the visa because she knew that it would take years for her own visa to be approved. She stated that she did not obtain the visa from the Consulate, but that it was given to her in the street by a vendor. The applicant was detained for a hearing before an immigration judge after it was determined that she was inadmissible to the United States pursuant to sections 212(a)(6)(C)(i) and 212(a)(7) of the Act.

Accordingly, the applicant is inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act. The applicant's application for waiver of grounds of inadmissibility was denied by the acting district director on October 28, 2002, because the applicant failed to demonstrate how her removal would result in extreme hardship to her qualifying relative. The applicant appealed the decision of the acting district director, and on June 5, 2003, the AAO dismissed the appeal.

Counsel, in response to the notice of certification, requests that the AAO revoke the decision of the acting district director and grant the waiver in order to allow the applicant to adjust status under section 1 of the CAA. This is not the proper forum for requesting a revocation of a waiver application. It is noted that counsel's brief, furnished on notice of certification regarding the application for section 1 of the CAA, is a duplicate of the appeal brief furnished by counsel when he appealed the denial of the waiver application.



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.