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U.S. Department of Homeland Security  
20 Mass, Rm. A3042, 425 I Street, N.W.  
Washington, DC 20536



U.S. Citizenship  
and Immigration  
Services

[Redacted]

FILE:

[Redacted]

Office: MIAMI, FLORIDA

Date:

APR 20 2004

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)

ON BEHALF OF PETITIONER:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Director  
Administrative Appeals Office

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**Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

**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 was affirmed. The matter is now before the AAO on a motion to reopen. The motion to reopen will be dismissed, and the previous AAO decision will be affirmed.

The applicant is a native Cuba and citizen of Venezuela 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. The CAA provides, in 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, (now the Secretary of Homeland Security, (Secretary)), 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 had not established that she was maintaining a residence in the United States. The acting district director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application. *See Acting District Director's decision* dated December 26, 2002. The decision was affirmed by the AAO. *See AAO decision*, dated May 19, 2003.

On motion to reopen dated June 25, 2003, counsel states that he will be providing documentary evidence to show that the applicant's principal residence is the United States. As of this date nearly ten months later, no evidence has been furnished by counsel to support the claim that the applicant's principal residence is the United States.

The regulation at 8 C.F.R. § 103.5(a) states in pertinent part:

- (a) Motions to reopen or reconsider. . .
  - (2) Requirements for motion to reopen. A motion to reopen must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence.  
.....
  - (3) Requirements for motion to reconsider. A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.
  - (4) Processing motions in proceedings before the Service. A motion that does not meet applicable requirements shall be dismissed.

The AAO finds that no new information or evidence was submitted on motion, nor did counsel identify any legal error or misapplication of law in the previous AAO decision.

The issues in this matter were thoroughly discussed by the acting district director and the AAO in their prior decisions. In the motion to reopen counsel failed to provide any new evidence or set forth any new facts to be proved. Since no new issues have been presented for consideration, the motion will be dismissed.

**ORDER:** The motion is dismissed and the prior AAO decision is affirmed.