

A2

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 23 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 APPLICANT:

**PUBLIC COPY**

APR 23 2004

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

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

**DISCUSSION:** The application was denied by the District Director, Miami, Florida, who certified his decision to the Administrative Appeals Office (AAO) for review. The matter is now before the AAO on a motion to reopen. The motion will be granted, the district director's decision will be withdrawn, and the matter will be remanded to him for further action.

The applicant is a native and citizen of Peru 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 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, (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 provisions of this Act shall be applicable to the spouse and child of any alien described in this subsection, regardless of their citizenship and place of birth, who are residing with such alien in the United States.

The district director denied the application for adjustment of status as the spouse of a native or citizen of Cuba, pursuant to section 1 of the CAA of November 2, 1966, because the applicant and her spouse did not appear for an adjustment interview at the district office on December 1, 2003. *See District Director Decision* dated December 6, 2003.

The record reflects that on August 2, 2001, at Coral Gables, Florida, the applicant married [REDACTED] a native and citizen of Cuba whose immigration status was adjusted to that of a lawful permanent resident of the United States, pursuant to section 1 of the CAA. Based on that marriage, on October 21, 2001, the applicant filed for adjustment of status under section 1 of the CAA.

On October 27, 2003, a notice was forwarded to the applicant's address informing her, that she and her spouse were required to appear at Citizenship and Immigration Services, (CIS) for an interview regarding the application for permanent residence. The applicant failed to appear for her interview and the application was denied.

On notice of certification, the applicant was offered an opportunity to submit evidence in opposition to the district director's findings. On January 13, 2004, counsel submits a motion to reopen the case. In the motion counsel states that neither the applicant nor the attorney of record ever received a notification of her appointment. Counsel requests that the case be reopened so the applicant can be granted another opportunity to appear with her spouse for an adjustment of status interview.

The record of proceedings reflects that the appointment notice was forwarded to "6799 SW 39 Ter.". A review of the documentation in the record reveals that the applicant's address is: "6799 SW 89 Terrace". Since neither the applicant nor the attorney of record was properly informed of the date of the appointment for an interview regarding the application for adjustment of status a new interview appointment notice should be mailed to the applicant.

Accordingly the motion to reopen will be granted, the district director's decision will be withdrawn and the record will be remanded to him in order arrange for a new interview date.

**ORDER:** The district director's decision is withdrawn. The matter is remanded to him for further action consistent with the foregoing discussion.