

PUBLIC COPY

AD



**U.S. Citizenship
and Immigration
Services**

**Identifying data deleted to
prevent identity misappropriation
invasion of privacy and privacy**

[REDACTED]

FILE:

[REDACTED]

Office: MIAMI, FLORIDA

Date: FEB 06 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

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. 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 acting district director found the applicant inadmissible to the United States because he falls within the purview of section 212(a)(6)(D) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(D). The acting district director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application.

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

Section 212 of the Act states in pertinent part, that:

(a) Classes of Aliens Ineligible for Visas or Admission.-Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(6) Illegal entrants and immigration violators. –

(D) Stowaways.- Any aliens who is a stowaway is inadmissible.

The record reflects that on February 7, 1999, at Miami, Florida the applicant attempted to enter the United States as a stowaway aboard a cruise ship.

Thus the applicant is inadmissible to the United States, pursuant to section 212(a)(6)(D) of the Act. There is no waiver available to an alien found inadmissible under this section of the Act. The record further reflects that the applicant was paroled for removal proceedings on April 3, 2001. As the applicant never left the United States he remains inadmissible under section 212(a)(6)(D) of the Act and thus the applicant is ineligible for adjustment of status to permanent residence, pursuant to section 1 of the CAA 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.