



U.S. Citizenship  
and Immigration  
Services

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prevent disclosure of unclassified  
information and to prevent  
invasion of personal privacy

[Redacted]

FILE:

[Redacted]

Office: TEXAS SERVICE CENTER

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:

SELF-REPRESENTED

**PUBLIC COPY**

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 Director, Texas Service Center, who certified her decision to the Administrative Appeals Office (AAO) for review. The 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 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 director found the applicant inadmissible to the United States because he falls within the purview of section 212(a)(1)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(1)(A)(ii), for having failed to present documentation of having received vaccination against vaccine-preventable diseases. The director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application.

Section 212(a) of the Act states:

**CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.**-Except as otherwise provided in this Act, aliens who are ineligible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(1) **HEALTH RELATED GROUNDS.**-

(A) **IN GENERAL.**- Any alien-

\* \* \*

(ii) who seeks admission as an immigrant, or who seeks adjustment of status to the status of an alien lawfully admitted for permanent residence, and who has failed to present documentation of having received vaccination against vaccination-preventable diseases, which shall include at least the following diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis, and any other vaccinations against vaccine preventable diseases recommended by the Advisory Committee for Immunization Practices,

The record reflects that the applicant was neither recommended current of age-specific immunizations by an approved civil surgeon nor has the applicant submitted evidence of having received vaccination against such diseases enumerated in Section 212(a)(1)(A)(ii) of the Act. On September 23, 2003, the director requested from the applicant to submit a police letter of clearance and evidence of having received immunizations, giving the applicant twelve weeks to respond. The applicant submitted the requested police letter of clearance but did not provide the additional requested evidence to show that he had received vaccination against vaccine-preventable diseases.

Based on the evidence submitted the director denied the application for adjustment of status. The applicant was offered an opportunity to submit evidence in opposition to the director's findings. No additional evidence has been entered into the record.

Pursuant to section 291 of the Immigration and Nationality Act, 8 U.S.C. § 1361, the burden of proof is upon the applicant to establish that he is eligible for adjustment of status. He has failed to meet that burden. The decision of the director to deny the application will be affirmed.

This decision, however, is without prejudice to the filing of a new application for adjustment of status, along with the proper evidence and the appropriate fee.

**ORDER:** The director's decision is affirmed.