



U.S. Citizenship  
and Immigration  
Services



FILE:



Office: MIAMI, FLORIDA

Date:

OCT 21 2004

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:

SELF-REPRESENTED

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

identifying data deleted to  
prevent unwarranted  
invasion of personal privacy

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**DISCUSSION:** The application was denied by the District Director, Miami, Florida, who certified his decision to the Administrative Appeals Office (AAO) for review. The District Director's decision will be affirmed.

The applicant is a native and citizen of Colombia 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 determined that the applicant did not qualify for adjustment of status as the spouse of a lawful permanent resident who adjusted under section 1 of the CAA. The District Director, therefore, denied the application. *See District Director Decision* dated June 4, 2004.

The record reflects that on May 6, 2002, at Miami-Dade, Florida, the applicant married [REDACTED] a native and citizen of Cuba. Based on that marriage, on May 14, 2002, the applicant filed for adjustment of status under section 1 of the CAA.

The Board, in *Matter of Quijada-Coto*, 13 I&N Dec. 740 (BIA 1971), held that adjustment of status to that of a permanent resident, pursuant to the provisions of the Act of November 2, 1966, is not available to the spouse of an alien described in section 1 of the Act, where the alien himself had been denied adjustment of status under the Act.

The District Director denied the application after determining that the applicant's Cuban spouse, Mr. Acosta, was denied permanent residence under section 1 of the CAA, after being found inadmissible under sections 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(II) and 8 U.S.C. § 1182(a)(2)(C).

The District Director concluded that although [REDACTED] was not convicted of the charges filed against him there were sufficient reason to believe that he had been involved in the trafficking of a controlled substance and found him excludable under section 212(a)(2)(C) of the Act. There is no waiver available to an alien found inadmissible under section 212(a)(2)(C) of the Act. The AAO affirmed the District Director's decision to deny [REDACTED] application.

Accordingly, 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 District Director to deny the application will be affirmed.

**ORDER:** The District Director's decision is affirmed.