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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: MAR 18 2005

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:



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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, who certified his decision to the Administrative Appeals Office (AAO) for review. The AAO affirmed the director's decision. The matter is now before the AAO on a motion to reopen. The motion will be granted, the previous AAO order will be withdrawn and the matter will be remanded to the director for further action.

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 determined that the applicant was not eligible for adjustment of status because he failed to present documentation required by law to adjust his status and denied the application accordingly. *See Director's Decision* dated May 24, 2000. The Director's decision was affirmed by the AAO on certification. *See AAO's Decision* dated October 18, 2000.

The regulation at 8 C.F.R. § 245.2(a) states in pertinent part:

(3) Submission of documents.-

(iv) Under the Act of November 2, 1966. An application for adjustment of status is made on Form I-485A. . . . The application must include a clearance from the local police jurisdiction for any area in the United States when the applicant has lived for six months or more since his or her 14th birthday.

The applicant submitted a Form I-693, Medical Examination of Aliens Seeking Adjustment of Status, which did not indicate that he was examined for HIV or syphilis.

The applicant was requested on two separate occasions to submit the required documentation but failed to comply and the application was denied. On notice of certification, the applicant was offered an opportunity to submit evidence in opposition to the Director's findings. No additional evidence was submitted on certification.

On motion to reopen, which was timely filed, counsel submits the required documentation and requests that the application for adjustment of status be reopened.

Since the applicant submitted the required documentation the motion to reopen will be granted, the previous decisions will be withdrawn and the record will be remanded to the Director for review and entry of a new decision which, if adverse to the applicant is to be certified to the AAO.

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