U.S. Department of Homeland Security
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PUBLIC COPY

U.S. Citizenship and Immigration Services

A2

[redacted]

FILE: [redacted] Office: MIAMI, FLORIDA Date: NOV 15 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 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

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 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 was not eligible for adjustment of status, pursuant to section 1 of the CAA, because she did not provide any official document recognizing her as a Cuban citizen. The District Director, therefore, denied the application. *See District Director's Decision* dated September 7, 2004.

On notice of certification, the applicant was offered an opportunity to submit evidence in opposition to the District Director's findings. No additional evidence has been entered into the record.

The record reflects that the applicant entered the United States on June 6, 1984. At that time, her mother stated that the applicant was born in Panama. In addition, on an application for asylum filed by her mother it is stated that the applicant was born in Panama. On her application for adjustment of status the applicant states that she was born in Cuba and on a Biographic Information Form (Form G-325) the applicant states that she was born in Panama but that she is a Cuban citizen by naturalization.

The applicant, in this case, is applying for adjustment of his status to permanent residence under section 1 of the CAA. To be eligible for adjustment of status under section 1 of the CAA, an alien must show only that she is a native <u>or</u> citizen of Cuba, she was inspected and admitted or paroled into the United States, she has been physically present in the United States for at least one year, and that she is admissible to the United States for permanent residence. *See Matter of Masson*, 12 I&N Dec. 699 (BIA 1968).

A review of the record of proceedings has failed to prove that the applicant is entitled to Cuban citizenship and does not overcome the findings of the District Director.

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 she is eligible for adjustment of status. Here the applicant has failed to meet that burden.

The decision of the District Director to deny the application will be affirmed.

ORDER: The District Director's decision is affirmed.