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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: MIAMI, FL

Date: FEB 07 2008

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The Acting District Director, Miami, Florida denied the application for adjustment of status and then certified the decision to the Administrative Appeals Office (AAO) for review. The decision of the Acting District Director will affirmed.

The applicant is a native and citizen of Peru who filed this application for adjustment of status to that of a lawful permanent resident under Section 1 of Pub. L. 89-732 (November 2, 1966), as amended, the Cuban Adjustment Act.

The Cuban Adjustment Act 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 Acting District Director determined that the applicant was not eligible for adjustment of status because she failed to demonstrate that her mother's marriage was not entered into for the primary purpose of circumventing the immigration laws of the United States. The Acting District Director, therefore, denied the application and certified the decision to the AAO. *Decision of the Acting District Director*, dated January 17, 2006.

Upon notice of certification, the applicant was provided an opportunity to submit a brief or other written statement. The applicant did not submit any additional statements.

As the AAO has found that the applicant's mother does not qualify to adjust her status to lawful permanent resident under the Cuban Adjustment Act, it finds that the applicant is not eligible to adjust her status to lawful permanent resident under the Cuban Adjustment Act as the stepchild of a Cuban citizen.

An applicant must demonstrate by a preponderance of the evidence that she is eligible for the benefit sought. Section 291 of the Immigration and Nationality Act, 8 U.S.C. § 1361, places the burden of proof upon the applicant to establish that eligibility. The applicant has not met her burden of proof. As such, the decision of the Acting District Director is affirmed.

**ORDER:** The decision of the Acting District Director is affirmed.