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U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street, N.W.
BCIS, AAO, 20th Mass, 3/F
Washington, D.C. 20536

AUG 26 2003

FILE: [REDACTED] Office: Texas Service Center

Date:

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

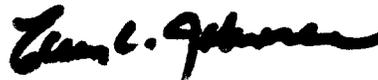
INSTRUCTIONS:

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.



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 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 of November 2, 1966. This Act provides for the adjustment of 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, to that of an alien lawfully admitted for permanent residence if 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 was not inspected and admitted or paroled into the United States. The director, therefore, denied the application.

The applicant has provided no statement or additional evidence on notice of certification.

The application for adjustment of status, filed on June 7, 2002, shows that the applicant claimed to have entered the United States near Miami, Florida, on May 1, 2001, and that he was not inspected by a Service officer upon entry.

The applicant bears the burden of proving that he in fact presented himself for inspection as an element of establishing eligibility for adjustment of status. *Matter of Areguillin*, 17 I&N Dec. 308 (BIA 1980). The applicant has failed to meet that burden.

It is, therefore, concluded that the applicant was not inspected and admitted or paroled into the United States. There is no waiver available to an alien found statutorily ineligible for adjustment of status on the basis that he was not inspected and admitted or paroled into the United States. Therefore, the applicant is not eligible for the benefit sought. The decision of the director to deny the application will be affirmed.

ORDER: The director's decision is affirmed.