

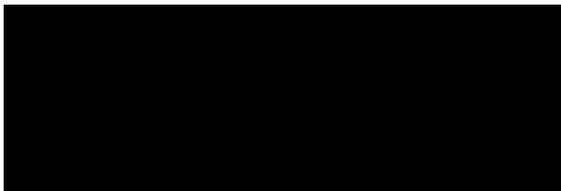
**PUBLIC COPY**

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

LA



FILE:



Office: MIAMI, FLORIDA      Date:

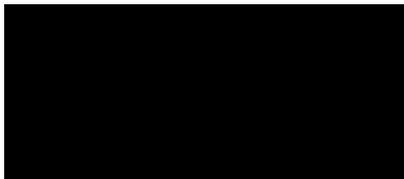
IN RE:

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:



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 is a native and citizen of Argentina 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 was not eligible for adjustment of status as the spouse of a native or citizen of Cuba, pursuant to section 1 of the CAA of November 2, 1966, because he entered into the marriage for the primary purpose of circumventing the immigration laws of the United States. *See District Director Decision* dated March 8, 2004.

The record reflects that on April 8, 2002, at Miami Beach, Florida, the applicant married [REDACTED] native and citizen of Cuba whose immigration status was adjusted to that of a lawful permanent resident of the United States, pursuant to section 1 of the CAA. Based on that marriage, on October 8, 2002, the applicant filed for adjustment of status under section 1 of the CAA.

On September 15, 2003, the applicant and his spouse [REDACTED] appeared before Citizenship and Immigration Services (CIS) for an interview regarding the application for permanent residence. The applicant and [REDACTED] were each placed under oath and questioned separately regarding their domestic life and shared experiences. Citing *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983), and *Matter of Phillis*, 15 I&N Dec. 385 (BIA 1975), the district director maintained that when there is reason to doubt the bona fides of a marital relationship, evidence must be presented to show that the marriage was not entered into solely for the purpose of circumventing the immigration laws of the United States. The District Director determined that the discrepancies encountered at the interview, and the lack of material evidence presented, strongly suggest that the applicant and her spouse entered into a marriage for the primary purpose of circumventing the immigration laws of the United States.

On notice of certification, the applicant was offered an opportunity to submit evidence in opposition to the District Director's findings. The applicant submits a letter in which he states that he and [REDACTED] got married but after the marriage their relationship fell apart. They decided to separate but later on they decided to reconcile in an effort to save their relationship. The applicant reinstates that they did not enter into a marriage for the primary purpose of circumventing immigration laws. In his letter dated May 2, 2004, the applicant further states that he and [REDACTED] do not live together anymore.

Although the provisions of section 1 of the Act are applicable to the spouse or child of an alien described in the Act, it has been held in *Matter of Bellido*, 12 I&N Dec. 369 (Reg. Comm. 1967), that an applicant who is

not a native or citizen of Cuba and is not residing with the Cuban citizen spouse in the United States, is ineligible for adjustment of status pursuant to section 1 of the CAA.

The applicant is not a native or a citizen of Cuba, nor is he residing with his Cuban citizen spouse in the United States. He is, therefore, ineligible for adjustment of status pursuant to section 1 of the CAA.

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. He 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.