

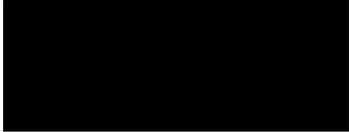
PUBLIC COPY

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

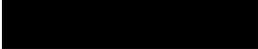


U.S. Citizenship
and Immigration
Services

AZ



FILE:  Office: MIAMI, FLORIDA Date: **OCT 18 2005**

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 PETITIONER: 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. On certification, the AAO withdrew the District Director's decision and the application was remanded to him for further action. The District Director reaffirmed his original decision and certified it to the AAO for review. The District 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 (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 District Director found the applicant inadmissible to the United States because he falls within the purview of section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of a crime involving moral turpitude. The District Director, therefore, denied the application. On certification the AAO found that the applicant's mother is a Lawful Permanent Resident (LPR) and the applicant might be eligible to file an Application for Waiver of Grounds of Inadmissibility (Form I-601) under section 212(h) of the Act. The case was remanded to the District Director to confirm if the applicant has the required family member in order to file a Form I-601. *See AAO's decision* dated August 26, 2004.

On February 10, 2005, the applicant appeared at the Miami district office for a scheduled interview in order to determine if he has a qualifying relative who could render him eligible to file a Form I-601. During the interview, the applicant stated that both of his parents are deceased, that he is single and does not have any children. The District Director reaffirmed his original grounds of denial for the adjustment of status and certified his decision to the AAO for review. *See District Director's Decision* dated February 10, 2005.

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.

As stated above the applicant was found inadmissible pursuant to section 212(a)(2)(A)(i)(I) of the Act. Section 212(h) of the Act provides that a waiver of the bar to admission resulting from section 212(a)(2)(A)(i)(I) of the Act is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member, United States citizen or lawfully resident spouse, parent, son, or daughter.

The applicant has failed to show that he has the qualifying family member required to file a waiver under section 212(h) of the Act.

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 he 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.