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U.S. Department of Homeland Security  
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U.S. Citizenship  
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Services

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FILE:



Office: MIAMI, FLORIDA

Date: FEB 25 2005

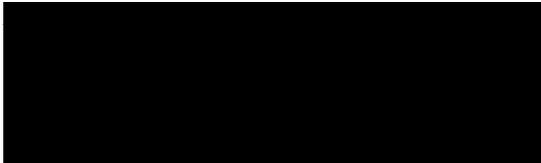
IN RE:

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:



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 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 she falls within the purview of section 212(a)(6)(C)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182 (A)(6)(C)(ii). The District Director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application. *See District Director's Decision* dated June 30, 2004.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

.....

(ii) Falsely claiming citizenship-

(I) IN GENERAL- Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any other Federal or State law is inadmissible.

(II) EXCEPTION- In the case of an alien making a representation described in subclause (I), if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such representation.

On notice of certification, the applicant was offered an opportunity to submit evidence in opposition to the District Director's findings. Counsel submits a statement in which she asserts that the application for adjustment of status has been erroneously denied since the interviewing officer never gave the applicant an opportunity to rebut the preconceived notions as to the manner of the applicant's entry into the United States.

Counsel's assertion is unpersuasive. The record of proceedings reflects that on January 7, 2004, the applicant appeared at Citizenship and Immigration Services (CIS) for an interview regarding her application for adjustment of status. On that date she was requested to submit, among other documentation, a sworn statement, explaining the manner of her entry into the United States. Therefore the applicant was given the

opportunity to submit documentation in order to rebut her inadmissibility under section 212(a)(6)(C)(ii) of the Act.

On February 10, 2004, the applicant submitted a copy of her sworn statement given on October 3, 2001, at the Miami International Airport. In her October 3, 2001, statement the applicant denies the fact that she presented a fraudulent U.S. birth certificate and a driver's license to an immigration inspector in an attempt to gain entry to the United States. The record of proceedings reveals that the applicant presented the above-mentioned documents to an immigration inspector at the primary line of inspection at the Miami International Airport. She was escorted to secondary for further inspection. During an interview in secondary the applicant admitted under oath that she paid approximately \$5,000 or \$6,000 in order to gain entry into the United States but refused to identify who arranged for her travel to the United States.

Notwithstanding the arguments on appeal, the record of proceedings reveals that the applicant presented a fraudulent U.S. birth certificate and a driver's license in an attempt to gain entry into the United States and therefore the applicant is inadmissible under section 212(a)(6)(C)(ii) of the Act. In the present case the applicant is subject to the provision of section 212(a)(6)(C)(ii) of the Act and she is not eligible for any relief under this Act.

The applicant is ineligible for adjustment of status to permanent residence, pursuant to section 1 of the CAA of November 2, 1966. The decision of the District Director to deny the application will be affirmed.

**ORDER:** The District Director's decision is affirmed.