**U.S. Department of Homeland Security**
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Washington, DC 20529

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

U.S. Citizenship and Immigration Services

**PUBLIC COPY**

[redacted]

A2

FILE: [redacted] Office: MIAMI, FLORIDA Date:

IN RE: Applicant: [redacted] NOV 16 2005

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. 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 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 District Director found the applicant inadmissible to the United States because he falls within the purview of section 212(a)(6)(D) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(D). The District Director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application accordingly. *See District Director's decision* dated June 22, 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.

Section 212 of the Act states in pertinent part, that:

> (a) Classes of Aliens Ineligible for Visas or Admission.-Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:
>
> . . . .
>
> (6) Illegal entrants and immigration violators. –
>
> . . . .
>
> (D) Stowaways.- Any aliens who is a stowaway is inadmissible.

The record reflects that on April 18, 1997, at Miami, Florida, the applicant attempted to enter the Untied States as a stowaway aboard an Air Jamaica aircraft.

The applicant is inadmissible to the United States pursuant to section 212(a)(6)(D) of the Act. There is no waiver available to an alien found inadmissible under this section of the Act and thus 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.