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

[redacted]

FILE: [redacted] Office: MIAMI, FLORIDA Date: NOV 21 2005

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:

[redacted]

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 Colombia 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 she entered into the marriage for the primary purpose of circumventing the immigration laws of the United States. *See District Director Decision* dated May 31, 2005.

The record reflects that on January 2, 2003, at Miami, Florida, the applicant married a 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 January 17, 2003, the applicant filed for adjustment of status under section 1 of the CAA.

On March 25, 2004, the applicant and her spouse (Mr appeared before Citizenship and Immigration Services (CIS) for an interview regarding the application for permanent residence. The applicant and Mr. 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.

Additionally, on March 25, 2005, Mr. stated in writing and under oath that he met the applicant through an individual who offered to pay him $3,000 in order to assist her to acquire permanent resident status. This individual was later arrested and subsequently convicted for his involvement in a marriage fraud scheme. Mr. further stated that he received $1,000 and the rest was to be given to him after the application was approved. In addition, Mr. stated that after the facilitator was jailed, he continued helping the applicant because she is a good person, but that he and the applicant never resided together as husband and wife.

On notice of certification, the applicant was offered an opportunity to submit evidence in opposition to the Acting District Director's findings. No additional evidence has been entered into the record.

Based on the sworn statement by the applicant's spouse it is concluded that the applicant's marriage was entered into for the primary purpose of circumventing the immigration laws of the United States.

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. The applicant has failed to meet that burden. Accordingly, the District Director's decision to deny the application will be affirmed.

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