

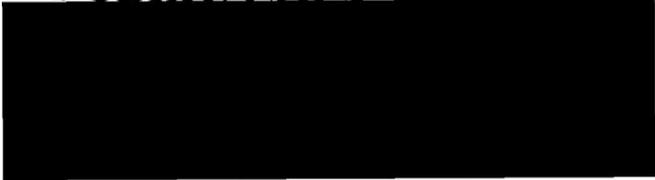


U.S. Citizenship
and Immigration
Services

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FILE:



Office: TEXAS SERVICE CENTER

Date: JUN 19 2006

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, who certified her decision to the Administrative Appeals Office (AAO) for review. The Director's decision will be affirmed.

The applicant is a native and citizen of Cuba who filed an 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 Director determined that the applicant was not eligible for adjustment of status, pursuant to section 1 of the CAA, because he failed to establish that he is a native or citizen of Cuba. *See Director's Decision* dated April 5, 2006.

The record reflects that on August 2, 2005, the Acting Director issued a Request for Evidence. The Acting Director requested that the applicant submit a copy of his birth certificate, with translation, or other documentary evidence, such as a Cuban passport, to establish his Cuban nationality. The applicant was given 12 weeks to respond.

The applicant did not submit the required documentation within the required time frame, and the application for adjustment of status was denied. In response to the request for evidence the applicant indicated that he had submitted his birth certificate with the original documents when he first filed his application and was going to request another copy from Cuba. The record contains a translation of a birth certificate, but no original birth certificate from which the translation was taken. The translation is not sufficient to prove Cuban nationality or citizenship.

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

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 Director to deny the application will be affirmed.

This decision, however, is without prejudice to the filing of a new application for adjustment of status, along with the proper evidence and the appropriate fee.

ORDER: The Director's decision is affirmed.