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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090

U.S. Citizenship
and Immigration
Services

A2

[Redacted]

FILE:

Office: NEW ORLEANS FIELD OFFICE

Date:

AUG 04 2009

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:

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom

Acting Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, New Orleans, Louisiana, who certified his decision to the Administrative Appeals Office (AAO) for review. The director's decision will be affirmed. The application will be denied.

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.

A review of the record reveals the following facts and procedural history: The applicant first entered the United States on or about January 18, 1996. He was interviewed by a United States Citizenship and Immigration Services (USCIS) officer on August 26, 2004. On September 8, 2006, USCIS sent a notice to the applicant's last known address requesting that the applicant indicate if he still wanted to pursue the matter and requesting an up to date address. The letter was returned as non-deliverable.

On March 8, 2007, the field office director determined that the applicant had abandoned the application as he had failed to respond to the September 8, 2006 letter that had been sent to his last known address and had failed to notify USCIS of a new address. The field office director certified his decision to the AAO on May 19, 2009. The AAO observes that the record also includes a Form AR-11, Alien's Change of Address Card, dated May 11, 2009 showing the applicant's new address. The AAO notes that the field office director issued the May 19, 2009 Notice of Certification to the applicant at his new address. The Notice of Certification advised the applicant of his opportunity to submit further information to the AAO within 30 days of the Notice of Certification. The applicant did not provide any information in response to the Notice of Certification. Thus, the record is considered complete.

As the applicant failed to respond to the field office director's request, sent to the applicant's last known address, the application must be denied. The record does not include any information that the applicant desires to pursue this application. The applicant has been given opportunity to respond to the director's denial based on abandonment on certification and has failed to respond. 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. The applicant has not met his burden. Accordingly, the AAO affirms the decision of the director to deny the applicant's application to adjust status pursuant to section 1 of the CAA.

ORDER: The director's decision is affirmed. The application is denied.