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U.S. Citizenship
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Services

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FILE: [REDACTED] Office: NEWARK, NEW JERSEY Date: **MAR 10 2009**
(relates)

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Adjustment of Status to that of Person Admitted for Permanent Residence
under Section 1 of the Cuban Refugee Act of November 2, 1966 (P.L. 89-732)

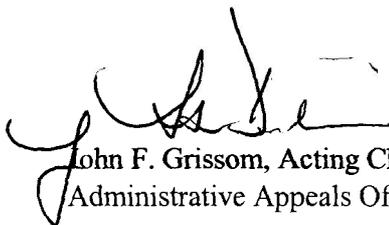
ON BEHALF OF APPLICANT:

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 Field Office Director, Newark, New Jersey, denied the application for adjustment of status and certified the decision to the Administrative Appeals Office (AAO) for review. The decision of the director 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:

[N]otwithstanding the provisions of section 245(c) of the [Immigration and Nationality Act] the 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 [Secretary of Homeland Security], 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 application for such adjustment, and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence Pub. L. 89-732 (November 2, 1966) as amended.

The record reflects the following facts and procedural history: On April 2, 2005, the director denied the applicant's application for a waiver of grounds of inadmissibility (Form I-601). The applicant appealed that decision to the AAO, and on June 26, 2007, the AAO dismissed the appeal, finding that the applicant was inadmissible to the United States pursuant to sections 212(a)(2)(A)(i)(I), 212(a)(2)(B), and 212(a)(9)(B)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. § § 1182(a)(2)(A)(i)(I), 1182(a)(2)(B), and 1182(a)(9)(B)(i). As the AAO's decision is part of the record, its contents need not be repeated here. In an undated decision, the director, noting that the AAO had found the applicant ineligible for a waiver of his grounds of inadmissibility, denied the applicant's Form I-485 application because the applicant was inadmissible to the United States. The director certified her decision to the AAO for review, and informed the applicant that he had 30 days to provide a brief or other written statement for consideration by the AAO. As of this date, the applicant has not submitted any evidence. The record is, therefore, considered complete.

As stated above, the AAO affirmed the director's decision to deny the applicant's Form I-601, which would have waived the applicant's grounds of inadmissibility. As the applicant has been found inadmissible to the United States, he is ineligible to adjust his status to that of a lawful permanent resident pursuant to section 1 of the CAA.

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 and the director's decision will be affirmed.

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