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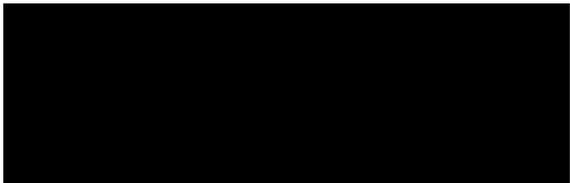
U.S. Department of Homeland Security  
20 Massachusetts Ave. N.W., Rm. 3000  
Washington, DC 20529-2090



U.S. Citizenship  
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FILE: [Redacted] Office: ORLANDO FIELD OFFICE Date: **MAR 13 2009**

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)

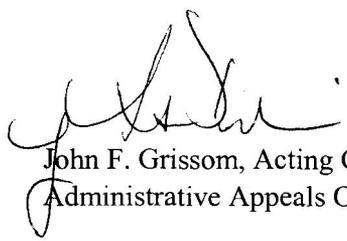
ON BEHALF OF APPLICANT:

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, Orlando, Florida, 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 applicant claims to be a native of Cuba and citizen of Venezuela 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.

The record reveals the following facts and procedural history. The applicant entered the United States on December 2, 2000 in B-2 status. On April 29, 2007, he filed an application to adjust his status (Form I-485) pursuant to section 1 of the CAA. On his I-485 application, the applicant stated that he was born in Cuba and was a citizen of Venezuela. At the time of an interview on September 23, 2008, the applicant executed a sworn statement. He stated that he was not born in Venezuela; he was born in Holguin, Banes, Cuba, where he and his family lived for approximately one year before leaving for Venezuela. In support of his claim, the applicant submitted a birth certificate showing his birthplace as Holguin, Banes, Cuba.

In her October 24, 2008 notice of certification, the director informed the applicant that the birth certificate he submitted was fraudulent. The director also noted that, on the applicant's application for a visa to enter the United States, he claimed that he was born in San Cristobal, Venezuela, not Cuba. The director denied the applicant's Form I-485 because the applicant was inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (INA) for seeking to obtain an immigration benefit through fraud. The director certified her decision to the AAO for review, and informed the applicant that he had 30 days to supplement the record with any evidence that he wished the AAO to consider. The applicant has not submitted additional evidence for consideration.

As the applicant has not provided any evidence to dispute the director's findings, the AAO must affirm the decision to deny the I-485 application. The applicant is inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the INA, as a person who has attempted or conspired to obtain an immigration benefit through fraud.

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.