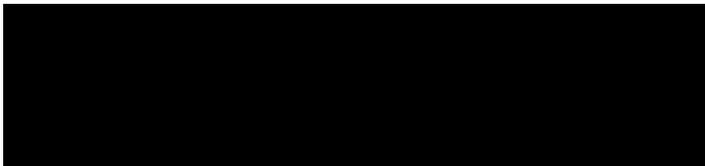


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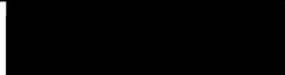
U.S. Citizenship
and Immigration
Services

PUBLIC COPY



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FILE:



Office: ORLANDO FIELD OFFICE Date:

MAR 13 2009

IN RE:



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)

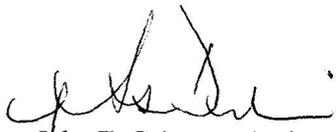
ON BEHALF OF APPLICANT:

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 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, as the spouse of a Cuban citizen who is also described in section 1 of the CAA. 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 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.* [Emphasis added]

The record reveals the following facts and procedural history: The applicant was admitted to the United States on March 15, 2002 as a B-2 visitor. On September 1, 2007, the applicant completed a Form I-9, Employment Eligibility Verification. On this form, the applicant attested, under the penalty of perjury, that she was a citizen or national of the United States. The applicant signed the Form I-9, which provides: "I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form." On May 30, 2008 in Ocoee, Florida, the applicant married [REDACTED], a native and citizen of Cuba, who on August 17, 1995 became a lawful permanent resident pursuant to section 1 of the CAA. The applicant filed the instant Form I-485 application to adjust status on June 12, 2008.

In her January 9, 2009 notice of certification, the director informed the applicant that she was inadmissible to the United States under section 212(a)(6)(C)(ii) of the Immigration and Nationality Act (INA) for making a false claim to U.S. citizenship on the Form I-9 that she completed on September 1, 2007. The director denied the application and certified her decision to the AAO for review. The director informed the applicant that she had 30 days to supplement the record with any evidence that she 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)(ii) of the Immigration and Nationality Act (INA) for making a false claim to U.S. citizenship. There is no waiver available for this ground of inadmissibility. 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 not met her burden and the director's decision will be affirmed.

ORDER: The director's decision is affirmed.