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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

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FILE:

Office: ORLANDO FIELD OFFICE Date:

MAY 06 2009

IN RE:

Applicant:

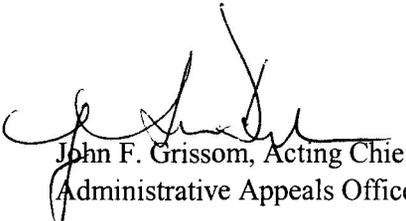
APPLICATION: Application for Adjustment of Status to that of Person Admitted for Permanent Residence under Section 1 of the Cuban Refugee Act of November 2, 1966 (P.L. 89-732)

ON BEHALF OF APPLICANT:

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 Cuban 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 February 9, 2006 in B-1 status. On December 26, 2006, the applicant married her current spouse. On July 5, 2007, the applicant filed an application to adjust her status (Form I-485) pursuant to section 1 of the CAA. On her I-485 application, the applicant stated that she was born in Cuba and was a citizen of both Venezuela and Cuba. Attached to her Form I-485 was a birth certificate, which indicated that she was born in La Habana, Cuba. On June 26, 2008, the applicant was requested to submit copies of her biological mother's and father's birth certificates, with translations; copies of her parents' passports; proof that her parents were in Cuba as religious missionaries when the applicant was born; and a copy of the applicant's Venezuelan birth certificate, with translation. The applicant did not submit the requested documents.

In her March 11, 2009 notice of certification, the director informed the applicant that the birth certificate she submitted was fraudulent. The director also noted that, on the applicant's passport, it indicated that she was born in Maracaibo Zulia, Venezuela, and that her marriage certificate gave her place of birth as Venezuela. 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 (the Act) for seeking to obtain an immigration benefit through fraud. 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 he wished the AAO to consider. Neither the applicant nor counsel has 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 and further conclude that the applicant is inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act 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 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.