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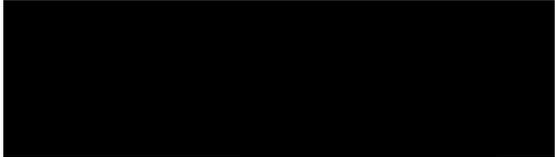
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

A2



FILE: [Redacted]
SRC 04 087 51141

Office: NEWARK, NEW JERSEY

Date: APR 05 2010

IN RE: Applicant:



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).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Newark, New Jersey, denied the application to adjust status and certified her 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 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 applicant is seeking classification as the spouse of a Cuban citizen who has been granted lawful permanent residence classification pursuant to section 1 of the CAA. The CAA provides, in pertinent 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 her discretion and under such regulations as she 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.

A review of the record reveals the following facts and procedural history: On the Form I-485, Application to Register Permanent Residence or Adjust Status, the applicant stated that she last entered the United States in July 2002. On September 6, 2002, the applicant married [REDACTED] a native or citizen of Cuba. On February 5, 2004, the applicant applied to adjust her status as a spouse of a Cuban citizen. On February 24, 2004, the applicant was interviewed regarding her marriage to [REDACTED] who did not attend the interview. The record includes a Final Judgment of Dissolution of Marriage, dated July 12, 2007, dissolving the marriage between [REDACTED] and the applicant.

On July 16, 2009, the field office director denied the application, determining that the applicant no longer qualified as the spouse of an alien described in section 1 of the CAA and thus was ineligible to adjust status pursuant to the CAA. The field office director certified her decision to the AAO for review. The field office 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 did not submit further information on certification. The record is considered complete.

Adjustment of status to that of a permanent resident pursuant to the provisions of the CAA is only available to the spouse and children of an alien described in section 1 of the Act. As the applicant in this matter is no longer the spouse of a Cuban citizen, the application must be denied.

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. Accordingly, the field office director's decision is affirmed.

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