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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] Office: MIAMI, FLORIDA
MSC 07 103 20344

Date:

JAN 26 2010

IN RE: Applicant: [REDACTED]

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:

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.

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Miami, Florida and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant is a native and citizen of Brazil 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 became a lawful permanent resident pursuant to section 1 of the CAA. The director denied the application on August 5, 2009, and the applicant filed an appeal from that denial.

The regulation at 8 C.F.R. § 245.2(a)(5)(iii) states, in pertinent part:

Under the Act of November 2, 1966. [N]o appeal lies from the denial of an application by the director, but the applicant, if not an arriving alien, retains the right to renew his or her application in proceedings under 8 C.F.R. part 240.¹

As the AAO does not have appellate jurisdiction over an appeal from the denial of an application for adjustment of status pursuant to section 1 of the CAA, the appeal must be rejected.

ORDER: The appeal is rejected.

¹ The AAO notes that the applicant is not an arriving alien, as his I-94 card indicates that he entered the United States on May 4, 2001 in B-2 status with authorization to remain until November 3, 2001.