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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

PUBLIC COPY



A2

DATE:

MAY 26 2011

Office: NEWARK FIELD OFFICE

FILE: 


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:

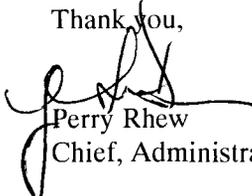
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,



Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Newark, New Jersey, who certified her decision to the Administrative Appeals Office (AAO) for review. The director's decision will be affirmed. The application will remain denied.

Applicable Law

The applicant is a native and citizen of Cuba 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.

Section 212(a)(6)(C) of the Act states in pertinent part:

- (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Section 212(i) states in pertinent part:

- (1) The [Secretary of Homeland Security] may, in the discretion of the [Secretary of Homeland Security], waive the application of clause (i) of subsection (a)(6)(C) of this section in the case of an immigrant who is the spouse, son, or daughter of a United States citizen or of an alien lawfully admitted for permanent residence if it is established to the satisfaction of the [Secretary of Homeland Security] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien

Pertinent Facts and Procedural History

The applicant is a native and citizen of Cuba. She applied for a visa to enter the United States on four occasions: on or about October 9, 2001; on or about May 17, 2001; on or about February 27, 2003; and on or about January 29, 2009. The record also shows that the applicant married [REDACTED] on May 2, 1989 and that the marriage was terminated by divorce on October 4, 1996. On the applicant's fourth visa application, on or about January 29, 2009, she indicated that she was married, and that the name of her spouse was [REDACTED]. A visa was issued to the applicant, which she used to enter the United States on or about April 3, 2009. On

or about September 17, 2010, the applicant filed a Form I-485, Application to Register Permanent Residence or Adjust Status. In an April 11, 2011 interview before a United States Citizenship and Immigration Services' (USCIS) officer, the applicant admitted that she had willfully misrepresented her marital status on the January 29, 2009 visa application because she believed that stating that she was married increased her chances of obtaining a visa to enter the United States. The field office director denied the application on April 18, 2011, determining that the applicant was inadmissible under section 212(a)(6)(C)(i) of the Act for misrepresenting her marital status on her visa application, and was not eligible for a waiver because she had no qualifying relative. The field office director certified her decision to the AAO for review. The field office director notified the applicant that she could submit a brief or written statement to the AAO within 30 days of the certification in support of her application. To date, no further information has been submitted. The record is considered complete.

Upon review of the totality of the record in this matter, the AAO finds sufficient information in the record to support the field office director's conclusion that the applicant did willfully misrepresent a material fact, her marital status, to procure a visa to enter the United States. The applicant is therefore inadmissible under section 212(a)(6)(C)(i) of the Act. As the applicant falsely claimed to be married for the express purpose of obtaining a visa and the record does not reflect that she has a qualifying relative, she is not eligible for a waiver of this misrepresentation. The applicant is, therefore, ineligible for adjustment of status to permanent residence, pursuant to section 1 of the CAA of November 2, 1966.

In proceedings for adjustment of status under the CAA the applicant bears the burden of establishing eligibility. *See* section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the field office director's decision denying the application will be affirmed.

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