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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**

A2

Date: **FEB 02 2012**

Office: RALEIGH-DURHAM, NC

IN RE: Applicant: [REDACTED]

Application: Application for Permanent Residence Pursuant to Section 1 of the Cuban Refugee Adjustment 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 \$630. 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 Raleigh-Durham, North Carolina Field Office Director (“the director”) denied the application, and certified his decision to the Administrative Appeals Office (AAO) for review. The director’s decision shall be affirmed. The application will remain denied.

The applicant is a native and citizen of the Cuba who filed this application for adjustment of status to that of a lawful permanent resident under section 1 of the Cuban Refugee Adjustment Act (CAA), Pub. Law No. 89-732 (Nov. 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 [Secretary of Homeland Security], 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[.] [Emphasis added]

The applicant is a native and citizen of Cuba who was paroled into the United States on April 9, 2010. The applicant filed the instant application to adjust status (Form I-485) on March 23, 2011. The director denied the application on September 22, 2011 because the applicant had not been physically present in the United States for at least one year at the time she filed for adjustment of status. The director certified his decision to the AAO for review and notified the applicant that she had 30 days to supplement the record with any evidence that she wished the AAO to consider. As of this date, no additional evidence has been received.

The AAO reviews these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). An adjustment of status application based upon section 1 of the CAA is not properly filed unless the applicant has, in part, been physically present in the United States for one year. 8 C.F.R. § 245.2(a)(2)(ii); section 1 of the CAA. The applicant filed the instant Form I-485 on March 23, 2011, less than one year after her April 9, 2010 parole into the United States. Accordingly her application to adjust status must be denied.

In these proceedings, the petitioner bears the burden of proof to establish her eligibility for the benefit she is seeking. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The director’s decision is affirmed. The application remains denied.