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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

[redacted]

A2

DATE: SEP 12 2012 Office: ORLANDO, FL FILE: [redacted]

IN RE: [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:

[redacted]

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,

for Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Acting District Director, Orlando, Florida, denied the application for adjustment of status and then certified the decision to the Administrative Appeals Office (AAO) for review. The decision of the Acting District Director will be affirmed.

The applicant is a native and citizen of Venezuela who was admitted to the United States on July 5, 2006 on a Venezuelan passport as a B-2 nonimmigrant visitor for pleasure with authorization to stay until January 4, 2007. On March 9, 2009 he submitted an application, as the child of a Cuban citizen, to adjust status to permanent resident pursuant to Section 1 of Pub. L. 89-732 (November 2, 1966), as amended, the Cuban Adjustment Act.[1]

The Acting District Director denied the application to adjust status as the applicant's father's application had been denied because he did not establish that he was a citizen of Cuba and was therefore ineligible to adjust status under the Cuban Adjustment Act. *Decision of the Acting District Director*, dated May 1, 2012.

The director certified her decision to the AAO for review and provided the applicant with a period of 30 days to supplement the record with a brief or any additional evidence. The applicant has not presented any evidence or arguments in rebuttal to establish that the director's decision was erroneous. As of this date, the AAO has not received any supplemental materials and considers the record complete.

As the applicant has not presented any evidence or arguments in rebuttal to establish that the director's decision was erroneous, the AAO shall not disturb the decision to deny the application.

The burden of proving eligibility for the benefit sought remains entirely with the applicant. 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 is denied.

[1] In a decision issued simultaneously with this decision, the AAO affirmed the director's decision to deny the applicant's father's application to adjust status as he had failed to establish his Cuban citizenship as required to adjust status under the Cuban Adjustment Act.