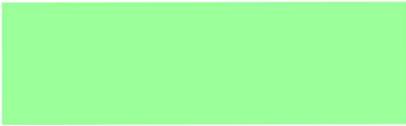




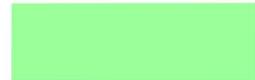
U.S. Citizenship
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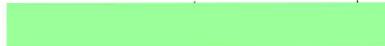


Date: **FEB 26 2013** Office: ORLANDO, FLORIDA

File:



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:

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 California Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron M. Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Field Office 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 director will be affirmed.

The record contains a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative. On January 23, 2013, the applicant's prior attorney, [REDACTED], submitted a written statement withdrawing from representation of the applicant. Therefore, this decision will be provided only to the applicant.

The applicant claims to be 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.

The record reveals the following facts and procedural history. The applicant was admitted to the United States on June 23, 2007 as a B-2 nonimmigrant visitor, but was later approved as an F-1 nonimmigrant student with authorization to remain in the United States for the duration of the status. On January 23, 2011, the applicant filed an application to adjust his status (Form I-485) pursuant to section 1 of the CAA. On his I-485 application, the applicant stated that he was born in Cuba and that he is a citizen of Cuba. In support of his application, the applicant submitted a Cuban birth certificate reflecting that his birth was registered in Tomo 441/Folio 263 of the Cuban Civil Registry on December 20, 1988. The birth Certificate was issued on January 15, 2010. At his adjustment interview on May 4, 2011, the applicant presented a Brazilian passport, which reflected that he was born in Brazil. At that interview, however, the applicant claimed that he was born in Cuba and not in Brazil.

The applicant has presented testimony that is contradictory to evidence in the record. For instance, the applicant claimed that he was born in Cuba when his parents were visiting Cuba. However, the Brazilian passport the applicant submitted at his adjustment of status interview indicated that the applicant was born in Brazil. The nonimmigrant visa that was issued to the applicant indicated his birth place and citizenship as Brazil, and the original copy of the birth certificate of the applicant's daughter indicated the applicant's place of birth and citizenship as Brazil.

Because of the inconsistent statements and documents pertaining to the applicant's place of birth and citizenship, the director submitted the applicant's Cuba birth certificate for overseas verification. The result of the verification indicates that the birth certificate is not genuine because

the applicant's name did not appear in the Tomo 441/Folio 263 of the Cuban Civil Registry of December 20, 1988. On January 7, 2013, the applicant appeared for a second interview where he was confronted with the derogatory evidence from overseas verification of his Cuban birth certificate and was given an opportunity to rebut or clarify the inconsistencies and derogatory information. The applicant failed to provide a reasonable explanation for the inconsistencies.

In his January 10, 2013 notice of certification, the director informed the applicant that the birth certificate he submitted was fraudulent. The director also noted that, the applicant had earlier submitted documentation indicating that he was born in Brazil and not in Cuba. Specifically, the director noted that the applicant was issued a Brazilian passport indicating that the applicant was born in Brazil and that the applicant is a citizen of Brazil. The applicant completed an application for a nonimmigrant visa where he indicated his place of birth as Brazil and not Cuba. The applicant entered the United States indicating on the Arrival/Departure Record that he is a citizen of Brazil, and the applicant indicated on the original birth certificate of his U.S. born daughter that his place of birth is Brazil and that he is a citizen of Brazil. The applicant subsequently amended his daughter's birth certificate to indicate that he was born in Cuba. Again, when confronted with the inconsistent information, the applicant failed to provide a reasonable explanation. The director denied the applicant's Form I-485 because the applicant was inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act) for seeking to obtain an immigration benefit through fraud. The director denied the application and certified his decision to the AAO for review. The director informed the applicant that he had 30 days to supplement the record with any evidence that he wished the AAO to consider. The applicant has not submitted additional evidence for consideration.

As the applicant has not provided any evidence to dispute the director's findings, the AAO must affirm the decision to deny the I-485 application and further concludes that the applicant is inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act as a person who has attempted or conspired to obtain an immigration benefit through fraud.

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 he is eligible for adjustment of status. The applicant has not met his burden and the director's decision will be affirmed.

ORDER: The director's decision is affirmed.