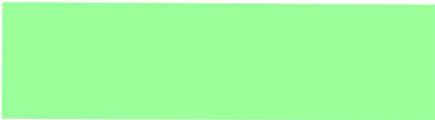




U.S. Citizenship
and Immigration
Services

(b)(6)

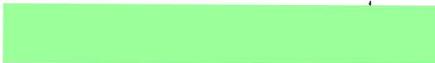


Date: **FEB 26 2013** Office: ORLANDO, FLORIDA

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

(b)(6)

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 applicant claims to be a native Venezuela and a 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 last entered the United States on July 13, 2002, as a nonimmigrant B-2 visitor. On June 7, 2010, the applicant filed an application to adjust her status (Form I-485) pursuant to section 1 of the CAA. On her Form I-485 application, the applicant stated that she was born in Venezuela but that she is a citizen of Cuba. In support of her application, the applicant submitted a Cuban birth certificate reflecting that her birth was registered in Tomo 30/Folio 12 of the Cuban Civil Registry on January 18, 2010. At her adjustment of status interview on August 31, 2010, the applicant confirmed that she was born in Venezuela but that she is a citizen of Cuba. The applicant submitted her Venezuelan passport, reflecting her citizenship as Venezuela. In addition, the applicant applied for and was admitted as a citizen of Venezuela as reflected in the Arrival/Departure record the applicant completed at the port of entry. The applicant presented testimony that was contradictory to previously submitted documents in the record regarding her place of birth and citizenship. Because of the inconsistencies in the record, the director requested overseas verification of the applicant's Cuban birth certificate from the United States special interests section in Cuba. The report confirmed that the applicant's name does not appear in the Civil Registry in Tomo 30/Folio 12 and that the birth certificate is fraudulent.

On January 7, 2013, the applicant appeared for a second interview where she was confronted with the derogatory evidence relating to her 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 she submitted was fraudulent. 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 and that she is ineligible for adjustment of status under section 1 of the Cuban Adjustment Act of November

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AAO for review. The director informed the applicant that she had 30 days to supplement the record with any evidence that she 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 conclude 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 her burden and the director's decision will be affirmed.

ORDER: The director's decision is affirmed.