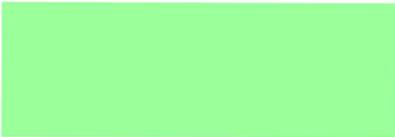


(b)(6)

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

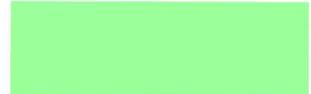


U.S. Citizenship
and Immigration
Services

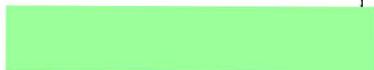


Date: **FEB 26 2013** Office: ORLANDO, FLORIDA

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,


p 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 applicant is a native and citizen of Venezuela 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 Field Office Director determined that the applicant was not eligible for adjustment of status as the spouse of a native of Venezuela and citizen of Cuba, pursuant to section 1 of the CAA of November 2, 1966, because the evidence presented by his spouse, the principal applicant in support of the application was determined to be fraudulent. The Field Office Director found the applicant's spouse inadmissible under section 212(a)(6)(C)(i) of the Act for seeking to obtain an immigration benefit through fraud and found her ineligible for adjustment of status under section 1 of the Cuban Adjustment Act of November 2, 1966 (Public Law 89-732). The Field Office Director denied the applicant's adjustment of status application on the basis of his spouse's ineligibility for adjustment of status under section 1 of the Cuban Adjustment Act of November 2, 1966 (Public Law 89-732).

In a separate decision, the AAO affirmed the decision of the Field Office Director that the applicant's spouse failed to establish her eligibility for adjustment of status under section 1 of the Cuban Adjustment Act of November 2, 1966 (Public Law 89-732). As the applicant's eligibility for adjustment under section 1 of the Cuban Adjustment Act of November 2, 1966 (Public Law 89-732) derives from the eligibility of his spouse, the applicant is also ineligible for adjustment of status.

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.