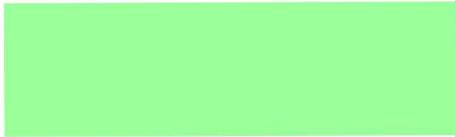




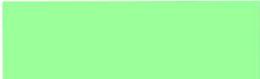
U.S. Citizenship
and Immigration
Services

(b)(6)



Date: JUN 17 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.

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,

A handwritten signature in black ink, appearing to read "Ron M. Rosenberg".

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 claims to be a native and a citizen of Cuban 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.

A review of the record reveals the following facts and procedural history: On the Form I-485 application, the applicant indicates that he last arrived in the United States on June 18, 1980 and was paroled into the United States on June 19, 1980. The Form I-485 that is the subject of this certification was filed on April 12, 2012. The record of proceedings includes the applicant's RAP sheet that shows the following criminal history in the State of Florida:

- On [REDACTED] 1982, the applicant was arrested and charged with petty theft. He was found guilty and sentenced to 18 months probation.
- On [REDACTED] 1984, the applicant was arrested for Larceny and was convicted of this crime on February 17, 1984.
- On [REDACTED] 1986, the applicant was arrested and convicted of aggravated assault with a weapon, adjudication was withheld and he was sentenced to probation.
- On [REDACTED] 1999, the applicant was arrested and charged with burglary. Adjudication was withheld and he was sentenced to probation for 18 months.

In a January 29, 2013 decision, the director determined that the applicant was not eligible for adjustment of status because his criminal history made him inadmissible to the United States. The director noted that while the applicant is statutorily eligible to adjust status under CAA, his criminal history in the state of Florida demonstrates "a pattern of lack of adherence to the laws of Florida" and has demonstrated a lack of "respect and disregard to the laws of the United States and well-being of property." Based on the evidence of record, the director denied the application on discretion stating that the adverse facts (applicant's criminal history) do not warrant a favorable exercise of discretion. The director denied the application and certified her 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 did not provide further information. Thus, the record is considered complete and the decision of the AAO will be based on the evidence of record.

Section 212(a)(2)(B) of the INA states:

Multiple criminal convictions.-Any alien convicted of 2 or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement were 5 years or more is inadmissible.

Section 237(a) of the INA states in pertinent part:

(A) General Crimes.-

(ii) Multiple criminal convictions.- Any alien who at any time after admission is convicted of two or more crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of whether confined therefor and regardless of whether the convictions were in a single trial, is deportable.

The director stated on certification that the granting of adjustment of status to that of a lawful permanent resident is a discretionary benefit, and even a single adverse factor may be sufficient to preclude a favorable exercise of discretion. The director determined that while the applicant may be statutorily eligible to adjust status under the Cuban Adjustment Act of 1966, his criminal history in the United States shows a lack of respect or disregard for the laws of the United States and the state of Florida, and weighs against a favorable exercise of discretion for a grant of permanent status in the United States. The AAO agrees with the director's decision after reviewing all of the facts.

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. 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.