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U.S. Department of Justice
Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[REDACTED]

Public Copy

FILE: [REDACTED]

Office: Miami

Date: MAR - 8 2001

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Permanent Residence Pursuant to Section 1 of the Cuban Adjustment Act of November 2, 1966 (P.L. 89-732)

IN BEHALF OF APPLICANT: Self-represented

Identification data deleted to prevent disclosure of personal information.

INSTRUCTIONS:

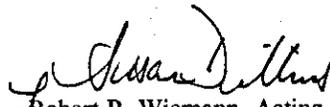
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS


Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Miami, Florida, who certified his decision to the Associate Commissioner, Examinations, for review. The district director's decision will be affirmed.

The applicant is 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 of November 2, 1966. This statute provides for the adjustment of 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, to that of an alien lawfully admitted for permanent residence if the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence.

The district director found the applicant is inadmissible to the United States because he falls within the purview of section 212(a)(6)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(6)(C). The district director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application.

The applicant has provided no statement or additional evidence on notice of certification.

Section 212(a)(6)(C) of the Act states in part:

Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or entry into the United States or other benefit provided under this Act is inadmissible.

The district director determined that the applicant is inadmissible to the United States pursuant to section 212(a)(6)(C) of the Act because he entered the United States with an altered Chilean passport containing a United States nonimmigrant visa issued in Stockholm.

The record of proceeding contains a statement by the applicant furnished as an addendum to his application for asylum (Form I-589) filed on June 17, 1996, stating, in part:

When I arrived in Sweden I went to the airport authorities and I requested political asylum. I was taken to a camp to fill out the necessary papers. I had to wait for an interview where the asylum request would be considered. I then found out that Cubans who applied for political asylum were being deported back to Cuba

from Sweden. I realized that I had to get out of Sweden because I was in danger of being returned to Cuba. I never went to the interview. I went to visit a Chilean's house and he told me that if I wanted to go to Miami he could arrange it for me. He told me that it would cost me, including airfare, US\$3,000.00. I only had US\$2,500.00, the rest was sent from the United States. I was afraid of being sent to Guantanamo so I passed as a visitor.

The record of proceeding contains a Republic of Chile passport issued on June 1, 1990, under the name of [REDACTED] and a B-2 visitor's visa issued in Stockholm on June 9, 1994. While the Form I-94 was not furnished by the applicant, the passport contains two entry stamps made by the U.S. Immigration on June 18, 1994 and on September 23, 1994.

As determined by the district director, the applicant is inadmissible to the United States pursuant to section 212(a)(6)(C) of the Act based on his entry to the United States with a fraudulent passport. The applicant was offered an opportunity to submit evidence in opposition to the district director's findings of inadmissibility. No additional evidence has been entered into the record. Further, the applicant is not the recipient of an approved waiver of such grounds of inadmissibility nor is there evidence in the record that he is eligible to file for a waiver.

It is noted for the record that an Order to Show Cause and Notice of Hearing, issued on March 20, 1997, reflects that the applicant entered the United States near Miami, Florida; on or about September 24, 1994, and that he was not inspected by an immigration officer. While the record does not contain the Form I-94 nor evidence that the applicant did in fact enter the United States without inspection, it should also be noted that there is no waiver available to an alien found statutorily ineligible for adjustment of status on the basis that he was not inspected and admitted or paroled into the United States.

In view of the foregoing, the applicant is ineligible for adjustment of status to permanent resident pursuant to section 1 of the Act of November 2, 1966. The decision of the district director to deny the application will be affirmed.

ORDER: The district director's decision is affirmed.