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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

PUBLIC COPY

[redacted]

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

FILE: [redacted] Office: Texas Service Center Date: FEB 28 2003

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

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that 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 that 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 that 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, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, who certified her decision to the Associate Commissioner, Examinations, for review. The 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 Act 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.

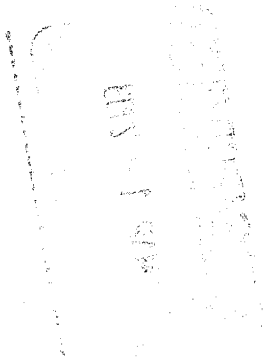
The director determined that the applicant failed to submit additional evidence, as had been requested. The director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application.

The record reflects that the applicant was requested on January 8, 2000, to submit police clearances from anywhere he had resided for at least six months, including Phoenix, Arizona, where he claimed to have resided from October 1997 until August 1998. Because he failed to comply, on April 9, 2002, the director denied the application based on abandonment.

Based on a motion to reopen filed by the applicant on May 2, 2002, the director again requested that the applicant submit police clearances, including clearances from the Phoenix Police Department and the Maricopa County/Sheriff's Office. In response, the applicant submits a letter of clearance from the Metro-Dade Police Department in Florida. Because the applicant failed to submit a police clearance from Phoenix, Arizona, the director again denied the application and certified his decision to the Associate Commissioner.

In response to the notice of certification, the applicant requests an additional 30 days in which to submit the letter of clearance from the Phoenix Police Department. However, it has been approximately 6 months since the request for extension and no additional evidence has been provided.

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. He has failed to

meet that burden. Therefore, the decision of the director to deny the application will be affirmed.

ORDER: The director's decision is affirmed.