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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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

FILE: [redacted] Office: Newark Date: MAR 20 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)

PUBLIC COPY

ON BEHALF OF APPLICANT:

[redacted]

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 Bureau of Citizenship and Immigration Services (Bureau) 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Newark, New Jersey, who certified her decision to the Administrative Appeals Office (AAO) 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 determined that the applicant was inadmissible to the United States pursuant to 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.

Section 212(a)(7) of the Act, 8 U.S.C. § 1182(a)(7), states, in part:

> (A)(i) Except as otherwise specifically provided in this Act, any immigrant at the time of application for admission --
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> > (I) who is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality if such document is required under the regulations issued by the Attorney General under section 211(a), is inadmissible.

The record reflects that on June 12, 1996, at Miami International Airport in Florida, the applicant was encountered by members of the Terrorist, Drugs and Fraud (TDF) team while conducting plane-side inspection. The applicant presented to the officer a photo-substituted Spanish passport belonging to another person into which her photograph had been substituted. After a brief inquiry, the officer returned the passport to the applicant. Upon reaching the immigration area, the applicant gave the passport to another passenger, and she presented herself for primary inspection without documents.

In a sworn statement before an officer of the Service, the applicant claimed that she is a Cuban national, and admitted that the Spanish passport she presented to the Service officer after disembarking from her flight in Miami, under the name of [redacted] was not her passport; however, the photo on the passport was her photo. She stated that she obtained the fraudulent passport from a Spaniard named [redacted] whom she met in Sweden and then saw in Barcelona, and that although she did not pay for the passport, she paid [redacted] one hundred Pesetas for the airline ticket. The applicant further stated that [redacted] was on the same flight with her, and after reaching the immigration area, [redacted] took the passport and the plane ticket from her.

The applicant was detained for a hearing before an immigration judge after it was determined that she was inadmissible to the United States pursuant to sections 212(a)(6)(C)(i) and 212(a)(7)(A)(i)(I) of the Act.

The district director correctly found the applicant inadmissible to the United States pursuant to section 212(a)(6)(C) of the Act. The applicant was offered an opportunity to submit evidence in opposition to the district director's findings. No additional evidence has been entered into the record of proceeding. Further, the district director noted that the application for waiver of grounds of inadmissibility, filed by the applicant on November 24, 1997, was denied on January 11, 2001. On February 6, 2001, the applicant appealed the decision of the district director to the AAO. The appeal was dismissed by the AAO on July 23, 2001.

In view of the foregoing, the applicant is ineligible for adjustment of status to permanent residence 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.