U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [redacted] Office: MIAMI, FLORIDA Date:

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)

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Miami, Florida, who certified his 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 Peru 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 pertinent 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 provisions of this Act shall be applicable to the spouse and child of any alien described in this subsection, regardless of their citizenship and place of birth, who are residing with such alien in the United States.

The District Director determined that the applicant did not qualify for adjustment of status as the spouse of a lawful permanent resident who adjusted under section 1 of the CAA. The District director, therefore, denied the application. *See District Director Decision* dated June 29, 2004.

The record reflects that on June 7, 2002, at Miami-Dade, Florida, the applicant married a native and citizen of Cuba. Based on that marriage, on August 7, 2002, the applicant filed for adjustment of status under section 1 of the CAA.

The District Director, in this case, denied the application after determining that the applicant's Cuban spouse, Mr. was convicted of a felony and was ordered removed from the United States on January 7, 2004. Based on that removal order, s no longer a lawful permanent resident of the United States.

Accordingly, the applicant is ineligible for adjustment of status to permanent residence, pursuant to section 1 of the CAA of November 2, 1966 as she is not married to a lawful permanent resident. The decision of the District Director to deny the application will be affirmed.

ORDER: The District Director's decision is affirmed.