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

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
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Washington, D.C. 20536

identifying data deleted to
protect privacy



FILE [Redacted]

Office: National Benefits Center

Date: DEC 05 2003

IN RE: Applicant: [Redacted]

APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

PUBLIC COPY

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Attached is the decision rendered on your appeal. The file has been returned to the Service Center that processed your case. If your appeal was sustained, or if your case was remanded for further action, the Service Center will contact you. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Missouri Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The matter will be remanded for further consideration and action.

The director denied the application as the applicant had been found inadmissible under section 212(a)(6)(C)(ii) of the Immigration and Nationality Act (INA), because he had made a false claim to United States citizenship.

An applicant for permanent resident status under the provisions of LIFE Act must establish that he is admissible to the United States as an immigrant, except as otherwise provided under section 245A(d)(2) of the INA. Section 1140(c)(2)(D)(i) of the LIFE ACT.

The director may have been correct in stating that the applicant is inadmissible under section 212(a)(6)(C)(ii) of the INA. The information relating to that is contained in A75 654 431, which is another file that relates to the applicant. Although the applicant was charged with making a false claim to U.S. citizenship, prosecution was declined. The director must obtain A75 654 431, and then determine if the applicant is inadmissible on that ground. Such ground of inadmissibility may be waived pursuant to section 245A(d)(2) of the INA.

Furthermore, it does not appear that the director has reviewed the particular facts and circumstances relating to the applicant's inadmissibility as the record does not contain any documentation from the expedited removal proceedings of November 12, 2000, in which the applicant was found inadmissible. The fact that the applicant was removed and then reentered without permission renders him inadmissible under the section 212(a)(9) of the INA. Again, such inadmissibility may be waived.

Moreover, the record shows that the applicant had been arrested on November 11, 1990, and subsequently convicted of one count of theft of personal property in the Municipal Court of Glendale, California. It does not appear that the director has examined whether the applicant is eligible on the basis of his criminality.

Accordingly, this matter will be remanded for the purpose of a new decision addressing the above. The director shall determine whether the applicant is statutorily ineligible on the basis of criminality. If it is determined that he is not, the director shall accord the applicant the opportunity to file a waiver application regarding sections 212(a)(6)(C)(ii) and 212(a)(9) of the INA. In the event the director issues any contrary decision to the applicant concerning either the grounds of inadmissibility or a



corresponding waiver application, this matter shall be certified to this office for review.

ORDER: This matter is remanded for further action and consideration pursuant to the above.