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U.S. Citizenship
and Immigration
Services

LA

[Redacted]

FILE:

[Redacted]

Office: Los Angeles

Date **AUG 04 2004**

IN RE:

Applicant:

[Redacted]

PETITION: 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).

ON BEHALF OF APPLICANT:

[Redacted]

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. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. 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 District Director, Los Angeles, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director denied the application because the applicant admitted to having committed the essential elements of the crime of bigamy, a crime involving moral turpitude, thereby rendering him inadmissible under section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (INA, or the Act) and, therefore, ineligible for adjustment to permanent resident status under the LIFE Act.

On appeal, counsel for the applicant asserts that the applicant's application for adjustment under the LIFE Act is being denied solely due to inconsistencies and is, therefore, without a legal basis. Counsel also requested an additional 180 days in which to file a brief. As of this date, however, no additional brief or statement has been submitted into the record.

An alien is inadmissible if he or she has been convicted of a crime involving moral turpitude (other than a purely political offense), or if he admits having committed such crime, or if he admits committing an act which constitutes the essential elements of such crime. Section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (INA, or the Act), formerly section 212(a)(9) of the Act. Pursuant to 8 C.F.R. § 245a.18(c)(2), grounds of inadmissibility under this section of the Act (crimes involving moral turpitude) may *not* be waived.

The most commonly accepted definition of a crime involving moral turpitude is an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow men or to society in general, contrary to the accepted and customary rule of right and duty between man and man. *Jordan v. DeGeorge*, 341 U.S. 223, reh'g denied, 341 U.S. 956 (1951).

At the applicant's July 17, 2003 interview in connection with his application for adjustment to permanent resident status under the LIFE Act, he acknowledged under oath in the presence of an officer of Citizenship and Immigration Services (CIS) that he had been married to two women, [REDACTED] at the same time. At the conclusion the interview, a CIS officer presented the applicant with a sworn affidavit, which read as follows: "I have read to you [the applicant] the attached notes taken during the interview on July 17, 2003. Do you agree that the notes are fully true and originated from your testimony?" In response, the applicant wrote, "I agree," and affixed his signature to the statement, thereby affirming the veracity of the contents of the interview transcript. In addition, in his LIFE Act application and accompanying Biographic Information Form G-325A, both completed by the applicant on November 13, 2001, he listed [REDACTED] whom he now says he divorced in 1996, as his wife, while failing to list [REDACTED] his second wife, in the space designated for former spouses. This cast doubt on the 1996 divorce decree, which was submitted only *after* receipt of the district director's denial letter.

In rebuttal to the notice of intent to deny, counsel for the applicant provided CIS with photocopies of a February 12, 1996 divorce decree from [REDACTED] whom the applicant had married on March 3, 1980, and

a September 21, 1999 judgment of nullity against [REDACTED]. However, these documents do not rebut or overcome the applicant's admission under oath to having been simultaneously married to two women.

Counsel, on appeal, asserts that the applicant's application for adjustment under the LIFE Act is being denied solely due to inconsistencies. However, the applicant in this case has admitted under oath to having committed acts which constitute the essential elements of the crime of bigamy. In *Matter of E-*, 2 I&N Dec. 328 (A.G. 1945), the Board of Immigration Appeals (BIA) found bigamy to be a crime involving moral turpitude. State courts have found bigamy to be a crime involving moral turpitude when *mens rea*, or criminal intent, was an essential element. In the present case, the applicant was aware that he was still legally married to his first wife when he married the second. As such, the applicant is inadmissible under section 212(a)(2)(A)(i)(I) of the INA and is, therefore, ineligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

Pursuant to 8 C.F.R. 245a.12(e), an alien applying for adjustment of status under this part has the burden of proving by a preponderance of the evidence that he or she has resided in the U.S. for the requisite periods, is admissible to the U.S. under section 212(a) of the INA, and is otherwise eligible for adjustment of status. In this case, the applicant has not met his burden of proof.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.