



U.S. Citizenship  
and Immigration  
Services

12

[Redacted]

FILE: [Redacted]

Office: NATIONAL BENEFITS CENTER

Date:

IN RE: Applicant: [Redacted]

AUG 31 2004

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: 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. 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*

Robert P. Wiemann, Director  
Administrative Appeals Office

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prevent clearly unwarranted  
invasion of personal privacy

**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 appeal will be dismissed.

The director denied the application as he concluded that the applicant was inadmissible under section 1140(c)(2)(D)(ii) of the LIFE Act, by reason of his having been convicted of committing a felony in the United States.

On appeal, the applicant attempts to provide an explanation of the circumstances involving his conviction for grand theft.

An alien 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. An alien who has been convicted of a felony or three or more misdemeanors in the United States is inadmissible and, therefore, ineligible for adjustment to permanent resident status under section 1140(c)(2)(D)(ii) of the LIFE Act and 8 C.F.R. § 245a.11(d)(1).

"Felony" means a crime committed in the United States punishable by imprisonment for a term of more than one year, regardless of the term such alien actually served, if any, except when the offense is defined by the state as a misdemeanor, and the sentence actually imposed is one year or less, regardless of the term such alien actually served. Under this exception, for purposes of 8 C.F.R. Part 245a, the crime shall be treated as a misdemeanor. 8 C.F.R. § 245a.1(p).

"Misdemeanor" means a crime committed in the United States, either (1) punishable by imprisonment for a term of one year or less, regardless of the term such alien actually served, if any, or (2) a crime treated as a misdemeanor under 8 C.F.R. § 245a.1(p). For purposes of this definition, any crime punishable by imprisonment for a maximum term of five days or less shall not be considered a misdemeanor. 8 C.F.R. § 245a.1(o).

The record reveals the following regarding the applicant's criminal history:

- Conviction on November 4, 1994 for theft of personal property, a misdemeanor;
- Conviction on January 1, 1996 for petty theft with prior domestic violence, a misdemeanor; and
- Conviction on April 9, 1998 for grand theft/property over \$400, a felony.

The applicant has provided no independent, corroborative evidence to indicate that the aforementioned criminal charges are in any way inaccurate or erroneous. By reason of his felony conviction, the applicant is inadmissible and, therefore, ineligible for adjustment to permanent resident status under section 1140(c)(2)(D)(ii) of the LIFE Act and 8 C.F.R. § 245a.11(d)(1). Within the provisions of the LIFE Act, there is no waiver available to an alien convicted of a felony or three or more misdemeanors committed in the United States.

For the reasons discussed above, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

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