



U.S. Citizenship
and Immigration
Services



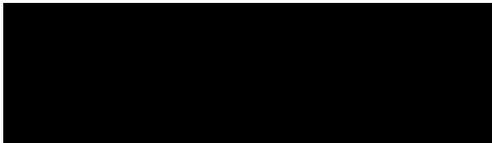
FILE: [REDACTED] Office: Los Angeles

Date: DEC 27 2008

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:



PUBLIC COPY

L-2

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 of the applicant's having been convicted of criminal offenses rendering her ineligible for adjustment to permanent resident status under the LIFE Act.

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).

"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 applicant having pled guilty to committing the following criminal offenses:

- Petty theft, a misdemeanor, in violation of section 488 of the California State Penal Code, on August 26, 1991; and
- Forcible entry/property damage, a misdemeanor, in violation of section 601 of the California State Penal Code, on May 18, 1992.

The record also includes an F.B.I. Identification Record indicating that, on March 15, 1992, the applicant was arrested on a charge of possession for sale of a narcotic controlled substance. However, neither counsel nor the applicant has endeavored to provide the final court dispositions regarding this criminal offense.

On appeal, counsel for the applicant acknowledges the applicant's criminal record, but asserts that she denies having been convicted of all three of the offenses in question. Counsel emphasizes that, under the LIFE Act, an applicant is ineligible for adjustment only if actually convicted of at least three or more misdemeanors.

Counsel's argument notwithstanding, it must be emphasized that any information obtained by Citizenship and Immigration Services (CIS) indicating that an applicant may have a criminal record is subject to further verification of the pertinent facts. Such applicant has the burden of proving by a preponderance of the evidence that he or she...is admissible to the United States under the provisions of section 212(a) of the Act. 8 C.F.R. § 245a.12(e). In failing to provide documents necessary for a proper adjudication of her application,

the applicant in this case has failed to establish such admissibility. Therefore, the applicant's appeal must be dismissed on this basis.

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