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U.S. Department of Homeland Security
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Washington, DC 20536



**U.S. Citizenship
and Immigration
Services**

[Redacted]

FILE:

[Redacted]

Office: NATIONAL BENEFITS CENTER

DATE: **MAR 04 2004**

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).

ON BEHALF OF APPLICANT:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. 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 Director, Missouri Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant was ineligible for adjustment to permanent resident status under the LIFE Act, having pled guilty to, and been convicted of, possession of a controlled substance.

On appeal, counsel states that, while the applicant was originally charged with Possession of a Controlled Substance with Intent to Deliver, a felony, that charge was subsequently reduced to Attempted Possession of a Controlled Substance, a Class A Misdemeanor.

An eligible alien, as defined in 8 C.F.R. § 245a.10(d), may adjust status to Legal Permanent Resident (or LPR) status under LIFE Legalization if he or she is not inadmissible to the United States for permanent residence under any provisions of section 212(a) of the Immigration and Nationality Act (INA).

According to section 212(a)(2)(A)(i)(II) of the INA, any alien convicted of, or who admits having committed, or admits committing acts which constitute the essential elements of a violation of (or a conspiracy to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), is inadmissible.

The record reveals that, on October 10, 1995, the applicant pled guilty to, and was convicted by the Twelfth Judicial Circuit Court, Joliet, Illinois, of possession of a controlled substance, a class A misdemeanor.

Counsel, in her appeal statement, is correct in noting that the initial charge against the applicant was subsequently reduced from felony to misdemeanor. As such, the decision of the director was in error in classifying the offense in question as a *felony*. However, as the applicant in this matter was convicted of possession of a controlled substance, he is, nevertheless, inadmissible under section 212(a)(2)(A)(i)(II) of the INA.

As the applicant is inadmissible, he is ineligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

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