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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services

[Redacted]

FILE:

[Redacted]

Office: NATIONAL BENEFITS CENTER

Date: **MAR 22 2004**

IN RE: Applicant:

[Redacted]

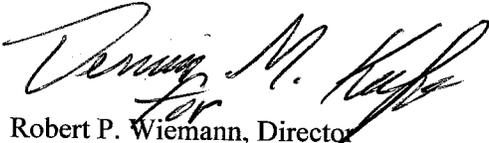
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

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.


for
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, as Citizenship and Immigration Services (CIS) had reason to believe the applicant was or had been an illicit trafficker in a controlled substance.

On appeal, counsel states that, while the applicant was originally charged with Trafficking in Cocaine and Conspiracy to Traffic in Cocaine, a felony, that charge was subsequently dismissed.

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)(C)(i) of the INA, any alien who the consular officer or the Attorney General knows or *has reason to believe* is or has been an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substance Act [21 U.S.C. 802]), or is or has been a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so, is inadmissible. [emphasis added].

The record reveals that, on June 17, 1994, the applicant was convicted of Trafficking in Cocaine by the 11th Judicial Circuit Court, Miami-Dade County, Florida. On April 26, 2000, this charge was dismissed. However, while an examination of the record indicates the drug trafficking charge against the applicant was in fact dismissed, an actual conviction of a drug trafficking offense or violation is not necessary to establish the ground of excludability under section 212(a)(2)(C) of the Act; an alien may be excluded if an immigration officer knows or has reason to believe that the alien is or has been an illicit trafficker in drugs. *Matter of Rico*, 16 I&N Dec. 181 (BIA 1977).

The intent to distribute a controlled substance has been inferred solely from possession of a large quantity of the substance. *United States v. DeLeon*, 641 F.2d 330 (5th Cir. 1980) (294 grams of cocaine); *United States v. Grayson*, 625 F.2d 66 (5th Cir. 1980) (413.1 grams of 74% pure cocaine); *United States v. Muckenthaler*, 584 F.2d 240 (8th Cir. 1978) (147 grams of cocaine).

In the present case, the record indicates that the applicant was arrested in the course of attempting to convey a tin can containing the amount of 2 (*two*) kilos of cocaine to an undercover police officer. As such, the applicant's arrest for drug trafficking, taken in conjunction with the amount of cocaine (2 kilos) in his possession at the time of his arrest, is sufficient to conclude that CIS *has reason to believe* that the applicant has been an illicit trafficker in cocaine, even though he may not have been actually convicted of trafficking.

It should also be noted that, at Part 3, question 1 of the applicant's LIFE application, when asked whether he had ever been arrested or charged with breaking or violating a law, the applicant responded in the negative. Clearly, in framing his response to this question, the applicant has deliberately provided misinformation and inaccurate responses in the course of supplying data requested of him by CIS in attempting to determine eligibility for permanent resident status under the LIFE Act.

As previously indicated, according to 8 C.F.R. § 245a.10(d), an applicant may not adjust status to Legal Permanent Resident (or LPR) status under LIFE Legalization if he or she is inadmissible to the United States under any provisions of section 212(a) of the Immigration and Nationality Act (INA). As the applicant is inadmissible under section 212(a)(2)(C)(i), 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.