



U.S. Citizenship
and Immigration
Services

LA

[Redacted]

FILE: [Redacted] Office: Los Angeles Date: 1/14

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

18 JAN 14 10 14 AM '14

PUBLIC 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 him ineligible for adjustment to permanent resident status under the LIFE Act.

On appeal, counsel for the applicant asserts that the misdemeanor convictions in question arose from only one single occasion of criminality. Counsel further asserts that, in entering his guilty plea, the applicant was under the mistaken impression that he was pleading guilty to only one conviction.

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, arising from the applicant's arrest on February 8, 1985:

- Assault, a misdemeanor, in violation of section 240 of the California State Penal Code;
- Battery, a misdemeanor, in violation of section 242 of the California State Penal Code;
- Fighting in a public place, a misdemeanor, in violation of section 215(1) of the California State Penal Code; and
- Dissuading a witness, a misdemeanor, in violation of section 136.1(B)(1) of the California State Penal Code.

On appeal, counsel for the applicant asserts that all four misdemeanor convictions ascribed to the applicant arose from only one single occasion of criminality and that, in entering his guilty plea, the applicant was under the mistaken impression that he was pleading guilty to only one conviction. In addition, counsel argues that applicant's sentence on all counts amounted to a maximum of only 2 days in jail and 3 years probation.

Counsel's arguments notwithstanding, the applicant's four misdemeanor convictions render him inadmissible and, therefore, statutorily 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 three or more misdemeanors committed in the United States.

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