



U.S. Citizenship
and Immigration
Services

L2

[Redacted]

FILE:

[Redacted]

Office: NATIONAL BENEFITS CENTER

Date:

IN RE:

Applicant:

[Redacted]

SEP 03 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, Director
Administrative Appeals Office

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prevent clear and unwarrented
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 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 concluded the applicant was inadmissible as an alien who has been convicted of, or 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 USC 802), as set forth in section 212(a)(2)(A)(i)(II) of the Immigration and Nationality Act (INA).

On appeal, the applicant asks that her case be reopened, and requests additional time in which to prepare a statement in support of her appeal. As of this date, however, no further statement or evidence has been submitted into the record.

The applicant appears to be represented; however, the individual identified as representing the applicant is not authorized to do so under 8 C.F.R. § 292.1 or § 292.2. Therefore, the notice of decision will be furnished only to the applicant.

An applicant for permanent resident status under the LIFE Act must establish that before October 1, 2000, he or she filed a written claim with the Attorney General for class membership in any of the following legalization class-action lawsuits: *Catholic Social Services, Inc. v. Meese*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) ("CSS"), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) ("LULAC"), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993) ("Zambrano"). See 8 C.F.R. § 245a.10.

An alien who has been convicted of a felony in the United States is ineligible for temporary resident status. 8 C.F.R. § 245a.2(c)(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).

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).

An alien is inadmissible if he has been convicted of, or 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 USC 802). Section 212(a)(2)(A)(i)(II) of the 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].

A review of the record indicates that, on July 16, 1996, the applicant pled guilty to and was convicted by the Superior Court of the County of Los Angeles of unlawful possession for sale of a controlled substance -- cocaine, a felony, in violation of Section 11351 of the California State Health and Safety Code.

The applicant has pled guilty to and been convicted of a controlled substance violation and illicit trafficking in a controlled substance -- a conviction which the applicant has *not* contested. As the applicant is inadmissible under sections 212(a)(2)(A)(i)(II) and 212(a)(2)(C)(i) of the INA, as well as ineligible for temporary resident status under 8 C.F.R. § 245a.2(c)(1), she may not be adjusted to permanent resident status under section 1104 of the LIFE Act.

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