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20 Mass. Ave., N.W., Rm. A3042
Washington, D.C. 20529



U.S. Citizenship
and Immigration
Services



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FILE: [REDACTED] Office: HOUSTON Date: 1/25

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:



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. Any further inquiry must be made to that office.

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, Houston, Texas, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The district director denied the application because he determined that the applicant had been convicted of a felony offense.

On appeal, counsel asserts that the applicant was convicted of a misdemeanor offense and provides evidence to support his assertion.

The regulation at 8 C.F.R. § 245a.18(a) states in part that an alien who has been convicted of a felony or three or more misdemeanors committed in the United States is ineligible for adjustment to LPR status.

"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 the term "felony" of this section. 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.

A review of the record does not support the director's finding of a felony conviction for the offense the applicant committed on or about May 27, 1999. The court disposition reflects that on June 16, 1999 the applicant was charged with violating section 646.9(A) PC, stalking/threat to another person. On June 22, 1999, the applicant was convicted of a misdemeanor offense in the Los Angeles County Municipal Court in California. Case no. [REDACTED] As such, the applicant has one misdemeanor conviction.

Accordingly, the applicant's appeal will be sustained. The district director shall continue the adjudication of the application for permanent resident status.

ORDER: The appeal is sustained.