

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy
PUBLIC COPY

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, D.C. 20529



U.S. Citizenship
and Immigration
Services

L2



FILE:

MSC 01 364 60207

Office: LOS ANGELES

Date: JUN 29 2006

IN RE:

Applicant:



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:

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. Any further inquiry must be made to that office.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Los Angeles, California and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The district director concluded that the applicant had been convicted of at least three misdemeanors in the United States, and accordingly, denied the application.

On appeal, the applicant asserts that he has only one misdemeanor conviction as all other counts were dismissed.

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 lawful permanent resident 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," pursuant to 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 FBI record reflects that on April 14, 1996, the applicant was detained by the legacy Immigration and Naturalization Service in San Luis, Arizona for presenting counterfeit identification documents and possession of counterfeit documents. Prosecution was declined and the applicant was returned to Mexico.

The applicant submitted the following court dispositions, which reflected his criminal history in the state of California:

1. On January 18, 1997, the applicant was arrested for driving under the influence, a violation of section 23152(a) VC, driving under the influence with .08 percent or more alcohol, a violation of section 23152(b) VC, and driving without a license, a violation of section 12500(a) VC, all misdemeanors. The applicant was also arrested for no evidence of financial responsibility, a violation of 16028(a) VC, an infraction. On February 18, 1997, the applicant pled guilty to driving under the influence and driving without a license. The applicant was fined and placed on probation. Case no. [REDACTED]
2. On April 4, 1998, the applicant was arrested for driving under the influence, a violation of section 23152(a) VC, driving under the influence with .08 percent or more alcohol, a violation of section 23152(b) VC, and driving without a license, a violation of section 12500(a) VC, all misdemeanors. On April 6, 1998, the applicant pled guilty to driving under the influence. The applicant was fined and placed on probation for five years. The remaining charges were dismissed. Case no. [REDACTED]

The director, in her decision, concluded that the applicant had been convicted of a misdemeanor for violating section 16028(a) VC on January 18, 1997. However, section 16029 of California Vehicle Code defines a violation of section 16028(a) as an infraction and, therefore, said conviction has no relevance in these proceedings.

The applicant's claim to have only one misdemeanor conviction is not supported by the record. The court dispositions submitted clearly reflect that the applicant has been convicted of three misdemeanors. The applicant is ineligible for the benefit being sought due to his three misdemeanor convictions. 8 C.F.R. §



Page 3

245a.11(d)(1) and 8 C.F.R. § 245a.18(a). Therefore, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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