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

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: HOUSTON Date: DEC 18 2007
MSC 02 134 64975

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. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if your case 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, 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, Houston, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director denied the application, finding that the applicant was not an eligible alien, as defined by 8 C.F.R. §254a.10, in that he had been convicted of three or more misdemeanors.

On appeal, counsel for the applicant files Form I-290B, Notice of Appeal to the Administrative Appeals Unit (AAU), and states, "This appeal is based on the fact that [the applicant] was not admonished by the criminal court of the immigration consequences he could face by pleading guilty to a misdemeanor offense." The director, however, provided a detailed analysis and specifically cited the deficiencies in the evidence in the course of the denial. Counsel's general objection on the Form I-290B, without specifically identifying any errors on the part of the director, is simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

On the Notice of Appeal received on January 6, 2005, counsel for the petitioner clearly indicates that he would send a brief with the necessary evidence to the AAO within thirty days. To date there is no indication or evidence that the petitioner ever submitted a brief and/or evidence in support of the appeal with the Service or with the AAO.[1] The appeal, therefore, will be adjudicated based on the evidence currently contained in the record.

The regulation at 8 C.F.R. § 245a.10(d)(1) provides in pertinent part that an eligible alien may adjust to legal permanent resident status under LIFE legalization if he or she "has not been convicted of any felony or of three or more misdemeanors committed in the United States." As stated by the director, the record contains evidence that the applicant was convicted of three misdemeanor offenses: one in Colorado in 1986 and two in Texas in 1992 and 2002.

No evidence to refute this finding has been submitted. Furthermore, counsel's brief statement on Form I-290B, which alleges that the applicant was unaware of the immigration consequences he could face by pleading guilty to a misdemeanor charge, is simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

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[1] On December 4, 2007, the AAO sent a fax to counsel. The fax advised counsel that no evidence or brief had been received in this matter and requested that counsel submit a copy of the brief and/or additional evidence, if in fact such evidence had been submitted, within five business days. Counsel replied in a fax dated December 5, 2007 and affirmed that no brief had been filed in this matter.

Since the applicant has been convicted of a total of three misdemeanors, 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.