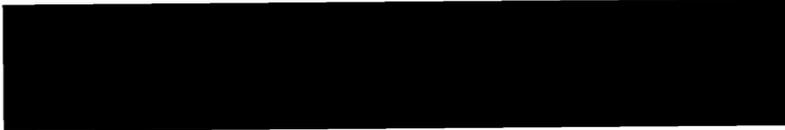


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invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

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FILE:

  
MSC 01 352 60063

Office: NORFOLK

Date:

JAN 25 2007

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:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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, Washington, D.C. and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The district director concluded that the applicant was inadmissible under section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act) due to his conviction of sexual battery.

On appeal, counsel concedes that the applicant had been convicted of sexual battery, but does not agree with the director's finding that the applicant had been convicted of a crime involving moral turpitude.

An alien is inadmissible if he has been convicted of a crime involving moral turpitude (other than a purely political offense), or if he admits having committed such crime, or if he admits committing an act which constitutes the essential elements of such crime. Section 212(a)(2)(A)(i)(I) of the Act.

The most commonly accepted definition of a crime involving moral turpitude is an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow men or to society in general, contrary to the accepted and customary rule of right and duty between man and man. *Jordan v. De George*, 341 U.S. 223, reh'g denied, 341 U.S. 956 (1951).

The record reflects that on May 8, 1997, the applicant was convicted in the Circuit Court of Chesterfield County, Virginia of sexual battery, a violation of Virginia Code Section 18.2-67.4, a Class 1 misdemeanor. The applicant was sentenced to serve ten months in jail and pay a fine of \$2,500.00. Case no. [REDACTED]

Section 18.2-11 of the Virginia Code classifies the penalty for violating a Class 1 misdemeanor as confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

Section 212(a)(2)(A)(ii)(II) of the Act provides for an exception to inadmissibility of an alien convicted of only one crime of moral turpitude if:

the *maximum* penalty possible for the crime of which the alien was convicted (or which the alien admits having committed or of which the acts that the alien admits having committed constituted the essential elements) did not exceed imprisonment for one year *and*, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment in excess of six months (regardless of the extent to which the sentence was ultimately executed).

(Emphasis added).

The applicant does not qualify under this exception as he was sentenced to a term of imprisonment in excess of six months. The applicant is inadmissible under section 212(a)(2)(A)(i)(I) of the Act due to his sexual battery conviction. No waiver of such ineligibility is available.

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.