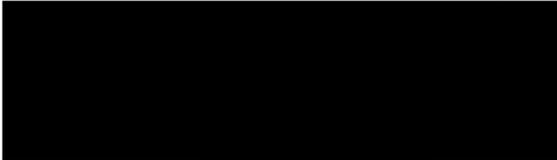




U.S. Citizenship
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FILE: [Redacted]
MSC 02 240 66170

Office: LOS ANGELES

Date: MAR 23 2007

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:

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, 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, and is now before the Administrative Appeals Office (AAO) on appeal. The case will be dismissed.

The director denied the application on the ground that the applicant has been convicted of three misdemeanors and a felony and is therefore ineligible for adjustment to permanent resident status pursuant to 8 C.F.R. § 245a.18(a)(1).

On appeal, the applicant asserts that he has only been convicted of two misdemeanors and one felony, but is still eligible to adjust states because these crimes were not crimes of violence or crimes involving moral turpitude.

An alien who has been convicted of a felony or three or more misdemeanors in the United States is ineligible for adjustment to permanent resident status under the LIFE Act. INA § 245A(a)(4)(A), 8 C.F.R. § 245a.18(a)(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 serviced. Under this section, for purposes of 8 C.F.R. Part 245a, the crime shall be treated as a misdemeanor. 8 C.F.R. § 245a.1(p)

“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 8 C.F.R. § 245a.1(p). For purposes of this definition, any crime punishable by imprisonment for a maximum of term of five days or less shall not be considered a misdemeanor. 8 C.F.R. § 245a.1(o).

The director denied the application on the basis of the following convictions:

- Misdemeanor violation of California Vehicle Code (VC) § 23103 (reckless driving) on March 12, 1976.
- Misdemeanor violation of VC § 23152(b) (driving under influence of 0.08 percent or more, by weight, of alcohol in blood) on July 14, 1992. Case # [REDACTED]
- Misdemeanor violation of VC § 14601.1(a) (driving with suspended license) on July 14, 1992. Case # [REDACTED]
- Felony violation of VC § 23152(a) (driving under influence of alcohol or drugs) on October 4, 1993, for which the applicant was sentenced to a term of imprisonment of 16 months. Case # [REDACTED]

On appeal, the applicant asserts that the director erred in finding that he was convicted in 1976 for reckless driving. The applicant notes that he was only ten-years-old and living in Mexico at that time. The applicant concedes that he was convicted of the other crimes listed by the director, but

asserts that he is still eligible for adjustment to permanent resident status under the LIFE Act because these crimes are not crimes of violence or crimes involving moral turpitude.

Documents in the record from the Municipal Court of Long Beach Courthouse Judicial District of Los Angeles County support the director's finding that the applicant has been convicted of the crimes listed above. These records indicate that the applicant actually was convicted of VC § 23103 in West Orange County on August 9, 1991 but admitted that he was convicted of this violation "on or around March 12, 1976" when he was convicted of violating VC § 23152(b) and VC § 14601.1(a) in Long Beach in 1992. Regardless, the applicant does not dispute that he was convicted of a felony, a conviction that renders the applicant ineligible for adjustment to permanent resident status under the LIFE Act. Whether these crimes were crimes of violence or crimes involving moral turpitude is irrelevant to the ground of ineligibility found at 8 C.F.R. § 245a.18(a)(1).

Because the applicant has been convicted of a felony and three misdemeanors in the United States, he is therefore ineligible for adjustment to permanent resident status under the LIFE Act. 8 C.F.R. § 245a.18(a)(1).

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