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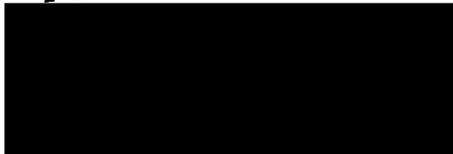
U.S. Department of Homeland Security
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U.S. Citizenship
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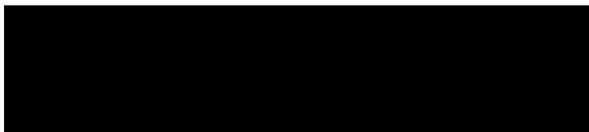
Office: LOS ANGELES

Date:

MAR 30 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:

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.

A handwritten signature in black ink, appearing to read "R. Wichmann".

Robert P. Wichmann, 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 is therefore ineligible for adjustment to permanent resident status pursuant to section 1104(c)(2)(D)(ii) of the LIFE Act and 8 C.F.R. § 245a.18(a)(1).

On appeal, the applicant asserts that he has only been convicted of two misdemeanors.

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. 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 regulation at 8 C.F.R. § 245a.1(p) also defines as a misdemeanor a crime “punishable by imprisonment for a term of more than one year 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 served.”

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

- Violation of California Vehicle Code (VC) § 23152(b) (driving under influence of 0.08 percent or more, by weight, of alcohol in blood) on February 16, 1999. Case [REDACTED]
- Violation of VC § 23152(a) (driving under influence of alcohol) on November 21, 2001. Case [REDACTED]
- Violation of VC § 23152(b) (driving under influence of 0.08 percent or more, by weight, of alcohol in blood) on November 21, 2001. Case [REDACTED]

On appeal, the applicant asserts that he has only been convicted of two misdemeanors, but submits no additional evidence in support of this assertion.

Documents in the record from the Municipal Court of the Compton Judicial District of Los Angeles County support the director's finding that the applicant has been convicted of the three misdemeanors listed above. Pursuant to VC § 23536, violations of VC § 23152 are punishable by imprisonment for a maximum term of six months.

Because the applicant has been convicted of three misdemeanors in the United States, he is therefore ineligible for adjustment to permanent resident status pursuant to section 1104(c)(2)(D)(ii) of the LIFE Act and 8 C.F.R. § 245a.18(a)(1).

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