

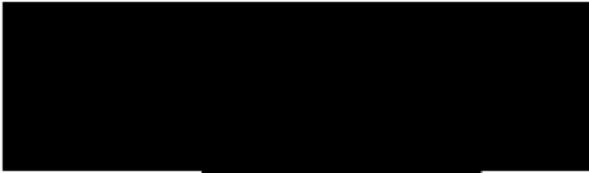
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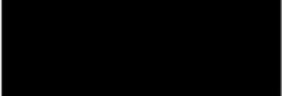
U.S. Citizenship
and Immigration
Services

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FILE:



Office: LOS ANGELES

Date:

APR 02 2008

MSC 01 354 61270

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits [or Records] Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

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 in Los Angeles, California. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The district director denied the application on the grounds that (1) the applicant failed to establish his continuous residence in the United States in an unlawful status from before January 1, 1982 through May 4, 1988, and (2) the applicant had been convicted of four misdemeanors committed in the United States.

On appeal counsel asserts that the applicant has established his eligibility for permanent resident status under the LIFE Act, that the witness affidavits submitted as evidence of the applicant's residence in the United States during the 1980s were not properly considered, and that the district director erroneously considered convictions that were "unrelated" to the applicable time period of January 1982 to May 1988.

To be eligible for adjustment to permanent resident status under the LIFE Act applicants must establish their continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988, as well as their continuous physical presence in the United States from November 6, 1986 through May 4, 1988. *See* section 1104(c)(2)(B)(i) and (C)(i) of the LIFE Act, 8 U.S.C. § 245A(a)(2)(A) and (3)(A).

An alien who has been convicted of a felony or of three or more misdemeanors committed in the United States is ineligible for adjustment to Lawful Permanent Resident status. *See* section 1104(c)(2)(D)(ii) of the LIFE Act and 8 C.F.R. § 245a.18(a)(1).

As defined in 8 C.F.R. § 245a.1(o):

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).¹ 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.

The record includes verified final court dispositions from the Superior Court of Los Angeles County confirming that the applicant was convicted of four misdemeanor crimes in the years 1991, 1996, 1997, and 1999. Counsel's claim that the district director should not have considered these convictions because they did not occur during the years 1982-1988 is meritless. Neither the LIFE Act nor the applicable regulations prescribes that the misdemeanor convictions must have occurred during any specific time period to make an applicant ineligible for

¹ The regulation at 8 C.F.R. § 245a.1(p) defines "felony" generally as a crime punishable by imprisonment for more than one year, but makes an exception if such an offense is defined by the State as a misdemeanor and the sentence actually imposed is one year or less.

permanent resident status, and that misdemeanor convictions falling outside a specific time period must be disregarded.

Because of his four misdemeanor convictions,² the applicant is ineligible under the LIFE Act and 8 C.F.R. § 245a.18(a)(1) for adjustment to lawful temporary resident status. There is no waiver available to an alien convicted of a felony, or three or more misdemeanors, committed in the United States. Accordingly, the district director's denial of the application for LIFE legalization will be affirmed on this ground.

The AAO also concurs with the district director's determination that the fill-in-the-blank affidavits submitted by the applicant as evidence of his residence in the United States during the years 1981 to 1988, which were not supplemented by any contemporaneous documentation from that time period, lacked sufficient evidentiary weight to establish that the applicant was continuously resident in the United States in an unlawful status from before January 1, 1982 through May 4, 1988, as required to be eligible for legal permanent residence under section 1104(c)(2)(B)(i) of the LIFE Act, 8 U.S.C. § 245A(a)(2)(A).

An alien applying for adjustment of status under the provisions of section 1104 of the LIFE Act has the burden of proving by a preponderance of evidence that he or she has continuously resided in an unlawful status in the United States from January 1, 1982 to May 4, 1988, is admissible to the United States under the provisions of section 212(a) of the Immigration and Nationality Act, and is otherwise eligible for adjustment of status. *See* 8 C.F.R. § 245a.11. The applicant has failed to meet this burden.

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

² According to a fingerprints result report from the Federal Bureau of Investigation (FBI), the applicant was arrested yet again by the Los Angeles Police Department on May 11, 2004, and charged with selling liquor to a minor. There is no final court disposition of this arrest in the record.