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[REDACTED]

FILE:

[REDACTED]

Office: LOS ANGELES

Date: **JUL 22 2008**

[REDACTED] - consolidated herein]

MSC 02 248 65490

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits 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, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to respond to a request that she provide final original court certified dispositions of all of her arrests.

On appeal, the applicant submits a brief statement and additional documentation.

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States, and is otherwise eligible for adjustment of status under this section. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and its amenability to verification. *See* 8 C.F.R. § 245a.12(e).

An alien shall not be eligible for adjustment of status to permanent resident status under the LIFE Act if the alien has been convicted of any felony or three or more misdemeanors committed in the United States. *See* 8 C.F.R. § 245a.18.

8 C.F.R. §§ 245.a.1(o) and (p) define “misdemeanor” and “felony” as:

Misdemeanor means a crime committed in the United States, either 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 CFR § 245a.1(p). 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.

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 served. Under this exception for purposes of section 245a, the crime shall be treated as a misdemeanor.

The applicant filed her Form I-485, Application to Register Permanent Resident or Adjust Status, under the LIFE Act on June 5, 2002. At the time of filing her application, the applicant indicated that she had never been arrested.

A criminal history check conducted in connection with the applicant’s Form I-485 revealed that she had been arrested in Los Angeles, California, on two occasions:

1. On November 26, 1992, for "WILLFUL CRUELTY TO CHILD;" and,
2. On August 18, 1996, for "SPOUSE BEATING."

On December 5, 2005, the applicant was interviewed in connection with her application. At that time, she was issued a request (on a Form I-72) to submit the final original court certified dispositions for each of the arrests detailed above. The applicant failed to respond to the Form I-72.

On September 7, 2006, the district director again requested the applicant to submit the final original court certified dispositions for each of her arrests and provided the applicant 30 days in which to respond. The district director noted that "if all requested initial evidence and requested additional evidence is not submitted by the required date, the application shall be considered abandoned and, accordingly, shall be denied." See 8 C.F.R. § 103.2(b)(13). Again, the applicant failed to respond.

The district director denied the application, in a Notice of Denial (NOD), dated October 19, 2006. The applicant filed an appeal from that decision on November 6, 2006.

On appeal, the applicant asserts that she has "...complied with all of the requests with all of the records that are available..." and asks that her case be approved. In support of the appeal, the applicant submits: (a) records from the California Municipal Courts, dated September 27, 2006, indicating that: (i) [REDACTED] was arrested in the County of Los Angeles for Theft of Property on or about March 30, 1994 (Case No. 94P3061); (ii) [REDACTED] was arrested in Los Angeles County for Theft of Property on February 26, 1991 (Case No. 91F02589); and, (iii) [REDACTED] was convicted of theft and was placed on summary probation for a period of 34 months after serving ten days in jail (Case No. 95F00582); (b) a letter from the Superior Court of California, County of Los Angeles, San Fernando Branch, dated September 27, 2006, stating that there was no record in reference to case # LAS 922023; and, (c) a letter, dated October 25, 2006, from the Los Angeles Police Department indicating that certified copies of arrest reports may be provided only if there is a court order or a subpoena related to pending litigation, or if it is requested by another government agency.

The documents detailed in (a), above, do not relate to the charges listed in Nos. 1 and 2. There is no evidence that the charges in Nos. 1 and 2 would have been handled under the jurisdiction of the San Fernando Superior Court, the document provided in (b). Furthermore, a letter from the Police Department, the document provided in (c), is not sufficient in place of the court records that were specifically requested.

The applicant has failed to provide the final court certified dispositions for each of her arrests, as requested. Therefore, she is ineligible for adjustment of status under the LIFE Act due to her failure to provide information necessary for the adjudication of her application. 8 C.F.R. § 244.9(a) Consequently, the district director's decision to deny the application will be affirmed.

Beyond the decision of the district director, the applicant has failed to submit proof of her identity pursuant to 8 C.F.R. §245a.2(d)(1), and has failed to establish her entry into the United States prior to

January 1, 1992, and continuous unlawful presence in the United States since then through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b).

An alien applying for adjustment of status under the LIFE Act has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 245A of the Act. The applicant has failed to meet this burden.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. An alien applying for adjustment of status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 245A of the Act. The applicant has failed to meet this burden.

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