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FILE:   
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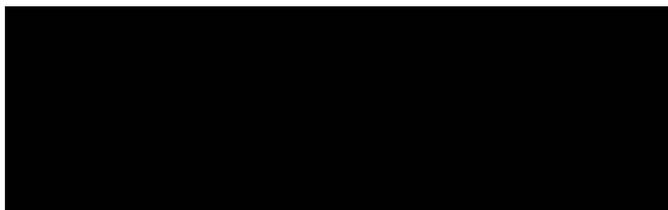
Office: LOS ANGELES

Date: **MAY 30 2008**

IN RE: Applicant: 

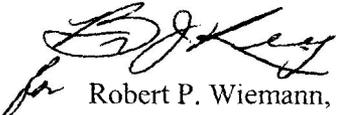
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), *amended by* Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

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 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.

  
for 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 (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 ground that the applicant had not submitted certified final court dispositions of all of his arrests in the United States, as requested in his interview for LIFE legalization on February 3, 2006, and in a subsequent Notice of Intent to Deny (NOID) issued on August 31, 2006.

On appeal the applicant asserts that the director's decision was in error because the documentation previously requested was duly submitted by the applicant. Copies of the most pertinent materials are resubmitted with the appeal.

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(p):

*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 8 CFR part 245a, the crime shall be treated as a misdemeanor.

The documentation submitted on appeal includes a certified copy of a Judgment and Probation/Commitment Order issued by the United States District Court for the Central District of California on August 16, 1999 in the criminal case of United States of America vs. Alfredo Serrato, aka Pedro Contreras (CR 99-318-LGB), stating that the applicant was convicted of "conspiracy to possess arrow keys and stolen U.S. mail" in violation of 18 U.S.C. §§ 371, 1704, and 1708. The applicant was sentenced to time served in jail (five months) and two years of probation. The maximum terms of imprisonment for violations of these sections of the U.S. Code, however, are five years under § 371 ("Conspiracy to commit offense or to defraud the United States"), ten years under § 1704 ("Keys or locks stolen or reproduced"), and five years under § 1708 ("Theft or receipt of stolen mail matter generally").

Each of the applicant's three convictions was punishable by imprisonment for a term of more than one year, and therefore constitutes a felony for LIFE legalization purposes under the definition at 8 C.F.R. § 245a.1(p). Since a single felony conviction renders an alien ineligible for legalization under section 1104(c)(2)(D)(ii) of the LIFE Act, the applicant is statutorily ineligible for adjustment to permanent resident status under the LIFE Act.

There is no waiver available, within the provisions of the LIFE Act, to an alien convicted of a felony, or three or more misdemeanors, committed in the United States.

An alien applying for adjustment of status under the provisions of section 1140 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.