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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
MSC 02 242 61710

Office: LOS ANGELES

Date: MAR 07 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. Any further inquiry must be made to that office.

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 on appeal. The appeal will be dismissed.

The district director determined that the applicant had been convicted of three or more misdemeanors and therefore, pursuant to 8 C.F.R. § 245a.18(a), was inadmissible to the United States. Accordingly, the director denied the application for adjustment of status as a permanent resident.

The applicant's criminal record history reveals the following:

- A May 28, 1991 conviction for hit and run causing death/injury in violation of California Vehicle Code 20001(a). He was sentenced to summary probation for a period of three years. Case no. [REDACTED]
- A June 18, 1992 conviction for reckless driving/no injury in violation of California Vehicle Code 23103. He was sentenced to 36 months probation and ordered to pay a fine of \$390.00. Case no. [REDACTED]
- A May 19, 1995 conviction for public intoxication in violation of California Penal Code 647(f). He was ordered to serve 1 day in jail and place on summary probation. Case no. [REDACTED]
- A January 29, 1998 conviction for driving under the influence of alcohol in violation of California Vehicle Code 23152(b). The applicant was ordered to serve 48 hours in the county jail and place on probation for a period of 60 months. Case no. [REDACTED]

The record, therefore, reflects that the applicant was convicted of four misdemeanors. The regulation at 8 C.F.R. § 245a.18 provides:

(a) *Ineligible aliens.* (1) 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 LPR status under this Subpart B.

On appeal, the applicant states that he believes that he has been treated unfairly, as the incidents occurred years earlier. The applicant also states that he has had two of the charges expunged. The applicant submits documentation reflecting that on February 2, 2005 and September 2, 2005, pursuant to motions by the applicant, the May 19, 1995 conviction for public intoxication and the May 28, 1991 conviction for hit and run were vacated and the pleas of guilty set aside pursuant to section 1203.4/1203.4a of the California Penal Code. However, for immigration purposes, these convictions are still convictions. Congress has not provided any exception for aliens who have been accorded rehabilitative treatment under state law. State rehabilitative actions that do not vacate a conviction on the merits are of no effect in determining whether an alien is considered convicted for immigration purposes. *Matter of Roldan*, 22 I&N Dec. 512 (BIA 1999). Additionally, neither the statute nor the regulations place a limitation on the length of time for which misdemeanor offenses may be discounted for immigration purposes.

Therefore, as the applicant has been convicted of four misdemeanors, he is inadmissible to the United States and is ineligible for permanent resident status under section 1104 of the LIFE Act.

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