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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

L 2

[Redacted]

FILE:

[Redacted]

Office: NATIONAL BENEFITS CENTER

Date: JAN 24 2001

IN RE:

Applicant:

[Redacted]

PETITION:

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:

[Redacted]

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, National Benefits Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director denied the application because of the applicant's having been convicted of criminal offenses rendering him ineligible for adjustment to permanent resident status under the LIFE Act.

On appeal, the applicant asserts that, notwithstanding the applicant's criminal convictions, he is nevertheless eligible for adjustment to permanent residence under the LIFE Act as per the court's findings in the case of *Immigration and Naturalization Service (INS) v. St. Cyr*, 121 S.Ct. 2271 (2001).

An eligible alien, as defined in 8 C.F.R. § 245a.10(d), may adjust status to Legal Permanent Resident (or LPR) status under LIFE Legalization if he or she is not inadmissible to the United States for permanent residence under any provisions of section 212(a) of the Immigration and Nationality Act (INA). 8 C.F.R. §245a.11(d). Further, an alien who has been convicted of a felony or three or more misdemeanors in the United States is inadmissible and, therefore, ineligible for adjustment to permanent resident status under the LIFE Act. 8 C.F.R. §245a.18(a)(1) and section 1140(c)(2)(D)(ii) of the LIFE Act.

"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 term of five days or less shall not be considered a misdemeanor. 8 C.F.R. § 245a.1(o).

The district director denied the application because of the applicant's having been convicted of criminal offenses rendering him ineligible for adjustment to permanent resident status under the LIFE Act. A review of the record indicates the applicant was convicted of, and pled guilty to, the following criminal offenses:

- Reckless conduct, a class B misdemeanor, by the Harris County District Court, Houston, Texas, on September 21, 1987;
- Unlawful carrying of a weapon, a class A misdemeanor, by the Harris County District Court, Houston, Texas, on September 21, 1987;
- Driving a vehicle while intoxicated, a class A misdemeanor, by the Harris County District Court, Houston, Texas, on March 26, 1994; and
- Driving a vehicle while intoxicated, a class A misdemeanor, by the Harris County District Court, Houston, Texas, on March 19, 2000.

Counsel's argument on appeal is not persuasive. The applicant in this case has been convicted of four misdemeanors. He is, therefore, statutorily ineligible for adjustment to permanent resident status under

section 1140(c)(2)(D)(ii) of the LIFE Act and 8 C.F.R. § 245a.11(d)(1). Within the provisions of the LIFE Act, there is no waiver available to an alien convicted of three or more misdemeanors committed in the United States.

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