

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

PUBLIC COPY

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

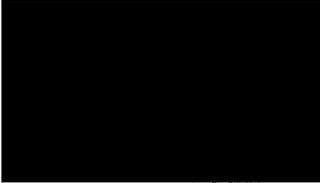


**U.S. Citizenship
and Immigration
Services**



L2

FILE:



Office: NATIONAL BENEFITS CENTER

Date:

JUL 07 2005

IN RE:

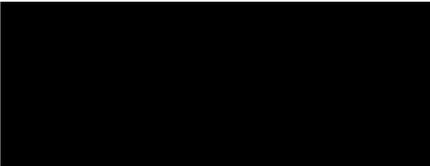
Applicant:



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. 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, 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 on appeal. The matter will be remanded for further consideration and action.

The director denied the application because it was determined that the applicant had been found inadmissible under section 212(a)(6)(E)(i) of the Immigration and Nationality Act (the Act) due to alien smuggling convictions.

An applicant for permanent resident status under the provisions of LIFE Act must establish that he is admissible to the United States as an immigrant, except as otherwise provided under section 245A(d)(2) of the Act. Section 1140(c)(2)(D)(i) of the LIFE ACT.

According to the FBI report dated June 10, 2003, the United States Border Patrol in San Ysidro, California arrested the applicant on May 3, 1982 and on June 17, 1986 for alien smuggling and illegal entry. The FBI report indicates that the applicant was received by the Metropolitan Correctional Center in San Diego, California on May 4, 1982 and June 19, 1986 and served 20 days and 30 days respectively, for the charges of "illegal entry." Because the record does not contain the actual court dispositions for the applicant's arrests on May 3, 1982 and June 17, 1986, it cannot be determined whether the applicant was convicted of the alien smuggling charges.

Assuming, arguendo, the director was correct in stating that the applicant was inadmissible under section 212(a)(6)(E)(i) of the Act due to alien smuggling convictions, such grounds of inadmissibility may be waived pursuant to section 245A(d)(2) of the Act; 8 C.F.R. § 245a.18(c).

The director must obtain the final court dispositions to determine the final outcome of the alien smuggling charges, and then determine if the applicant is inadmissible on that ground. If the applicant is inadmissible, the director shall accord the applicant the opportunity to file an application for waiver of inadmissibility regarding section 212(a)(6)(E)(i) of the Act. In the event the director issues any contrary decision, the matter shall be certified to this office for review.

ORDER: This matter is remanded for further action and consideration pursuant to the above.