

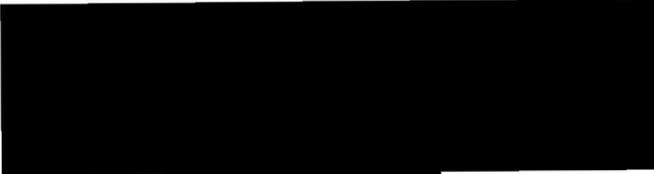
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U.S. Citizenship  
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FILE:



MSC 02 197 63019

Office: LOS ANGELES

Date:

JUL 13 2006

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:

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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 concluded that the applicant had been convicted of at least three misdemeanors in the United States, and accordingly, denied the application.

On appeal, the applicant apologizes for his previous wrongdoings and inquires about the status of the waiver he had previously submitted.

The regulation at 8 C.F.R. § 245a.18(a)(1) states in part that an alien who has been convicted of a felony or three or more misdemeanors committed in the United States is ineligible for adjustment to lawful permanent resident status.

"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 the term "felony," pursuant to 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 record reflects the applicant's criminal history in the state of California as follows:

1. On July 20, 1989, the applicant was arrested by the Los Angeles Police Department for theft of personal property.
2. On February 22, 1992, the applicant was arrested in Los Angeles County for driving under the influence, a violation of section 23152(a) VC, a misdemeanor. On May 27, 1992, the applicant was convicted of this offense. The applicant was placed on probation for three years on the condition he pays a fine or serve 13 days in jail. Case no. [REDACTED]
3. On July 6, 1999, the applicant was arrested by the Redondo Beach Police Department for driving under the influence. The applicant was subsequently charged with driving under the influence, a violation of section 23152(a) VC and driving with .08 percent or more alcohol in the blood, a violation of section 23152(b) VC. On July 7, 1999, the applicant was convicted of driving with .08 percent or more alcohol in the blood, a misdemeanor. The applicant was sentenced to serve 13 days in jail or pay a fine and placed on probation for three years. The remaining count was dismissed. Case no. [REDACTED]
4. On February 18, 2000, the applicant was arrested by the Los Angeles Police Department for prostitution. On March 6, 2000, the applicant was charged with disorderly conduct-prostitution, a violation of section 647(b) PC, a misdemeanor. On March 10, 2000, the applicant was convicted of this charge. The applicant was ordered to pay a fine or serve five days in jail and placed on probation for one year. Case no. [REDACTED]

On August 14, 2003 the director issued a Form I-72 advising the applicant to submit the final court disposition for number one above. The applicant, in response, submitted a court document dated August 14, 2003 from the Los Angeles Superior Court, indicating that a thorough search had been conducted of its misdemeanor/felony indices and no record was found relating to a case/citation in 1989.

A letter from the court indicating that a record could not be located does not indicate that the offense was dismissed or expunged. The FBI record, via a fingerprint search, revealed the applicant's criminal history. The applicant has the burden to establish, with *affirmative evidence* that an outstanding charge or arrest did not result in a conviction.

In response to the Notice of Intent to Deny dated August 9, 2004, the applicant submitted a Form I-601 Application for Waiver of Grounds of Excludability.

The applicant is ineligible for the benefit being sought due to his three misdemeanor convictions. 8 C.F.R. § 245a.11(d)(1) and 8 C.F.R. § 245a.18(a)(1). Within the LIFE program, there is no waiver available to an alien convicted of three misdemeanors committed in the United States. Therefore, the applicant 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.