

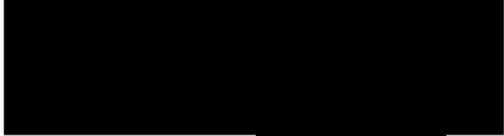
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U.S. Citizenship  
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FILE: [Redacted]  
MSC 02 250 60645

Office: LOS ANGELES Date: **APR 01 2008**

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. If your appeal was sustained, or if your case 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.

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

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The District Director, Los Angeles, denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant has been convicted of three misdemeanors.

On appeal, the applicant asserts that one of her convictions was dismissed.

An applicant who has been convicted of a felony or three or more misdemeanors in the United States is ineligible for adjustment to permanent resident status under the provisions of the LIFE Act. Section 1104 (c)(2)(D)(ii) of the LIFE Act; 8 C.F.R. §§ 245a.11(d)(1) and 18(a)(1). The regulations provide relevant definitions at 8 C.F.R. § 245a.

“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 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 term 'conviction' means, with respect to an alien, a formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where - (i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and (ii) the judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.

Section 101(a)(48)(A) of the Immigration and Naturalization Act (Act), 8 U.S.C. § 1101(a)(48)(A)..

The record reflects that on November 9, 1998, a jury in the Van Nuys Courthouse (Docket #8PN05644) found the applicant guilty of the following:

- Count 1: in violation of California Penal Code § 470, attempting to unlawfully make, alter, and, pass money orders without authority to do so, with intent to defraud;
- Count 2: in violation of California Penal Code § 475, unlawfully possessing and filling out money orders without authority to do so, in order to utter or pass the money orders with intent to defraud;
- Count 3: in violation of California Penal Code § 485, finding lost property under circumstances which gave her knowledge of or means of inquiry as to the true owner, and appropriating such property to her

own use, without first making reasonable and just efforts to find the owner and the restore the property to the owner;

Under California law, convictions in violation of California Penal Code §§ 470, 475, and, 485, are all misdemeanors. Each conviction can result in a term of imprisonment of up to one year.

The regulation at 8 C.F.R. § 244.1 defines a misdemeanor as a crime punishable by imprisonment for a term of less than one year, regardless of the term actually served, if any. In the applicant's case, she was convicted of three misdemeanors: all three punishable by a term of imprisonment of up to one year. For purposes of TPS eligibility, the applicant has been convicted of three misdemeanors.

The record reflects that, during the sentencing phase of the criminal proceedings against the applicant, the court suspended the sentence against the applicant as to all three counts. This does not mean, as the applicant asserts, that one of the counts against her was dismissed. Regardless of the fact that the court suspended the sentences of the applicant, she was still found guilty and convicted of the three misdemeanors mentioned above. The applicant has not submitted any evidence to establish that any of her three misdemeanors has been vacated or dismissed. Therefore, the applicant has been convicted of at least three misdemeanors and is ineligible for TPS under the specific criminal provisions for TPS applicants under Section 244(c)(2)(B)(i) of the Act. The application must be denied for this reason.

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