

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

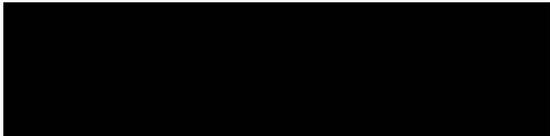
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

L2



FILE: MSC 02 219 60684

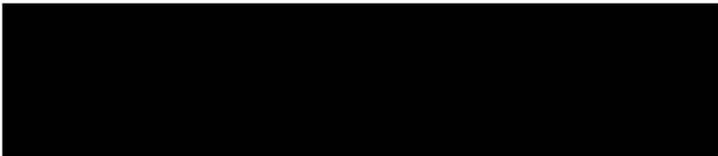
Office: LOS ANGELES

Date: JUN 18 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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

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 ineligible for adjustment to lawful permanent residence status under the LIFE Act.

On appeal, the applicant asserts that court records were incomplete, unclear or nonexistent and therefore do not provide evidence that he has been convicted of any crime.

The applicant's criminal record history reveals the following:

1. On May 15, 1985, the applicant was convicted in the Municipal Court of Citrus Judicial District, County of Los Angeles, of a vehicle speed contest on a highway, in violation of section 23109(a) of the California Vehicle Code. He was ordered to pay a fine. Case no. [REDACTED]
2. On January 22, 1986, the applicant was convicted in the Municipal Court of Rio Hondo Judicial District, County of Los Angeles, of driving under the influence with alcohol or drugs in the vehicle, in violation of California Vehicle Code section 23152(a). The applicant was placed on three years summary probation, ordered to pay a fine of \$664 or serve 100 hours of community service, and his driver's license was restricted for 90 days. Case no. [REDACTED]
3. On March 25, 1992, applicant was convicted in the San Bernardino Municipal Court District, County of San Bernardino, of driving under the influence with alcohol or drugs in the vehicle, in violation of California Vehicle Code section 23152(a). Judgment was withheld pending the applicant's payment of a \$1,114 fine, completion of an alcohol treatment program, and to serve 48 hours in jail. Case no. [REDACTED]

The record, therefore, reflects that the applicant has been convicted of at least three 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.

In response to the director's Notice of Intent to Deny (NOID) dated January 18, 2006, the applicant submitted copies of electronic dockets of his court case numbers [REDACTED] and [REDACTED], certified by the Clerk of the Superior Court, County of Los Angeles on January 30, 2006. However, the electronic dockets are incomplete and do not contain all of the information provided in certified copies of the court documents previously provided by the applicant and dated February 15, 2002. The electronic copies of the dockets do not show the final order of the judge disposing of the offenses, although they show the arraignment dates and, in case number [REDACTED], the stay of sentence.

In his letter accompanying the applicant's response to the NOID, former counsel states that the director misstated the case number in the applicant's 1992 case, and that it should read [REDACTED]. The applicant also submitted a letter from the Rancho District of the Superior Court, County of San Bernardino, indicating that the record in case number [REDACTED] had been destroyed. However, the applicant's record

of immigration proceeding contains a copy of the docket that was certified by the clerk on February 15, 2002, which shows the applicant's conviction for driving under the influence with alcohol or drugs in the vehicle. Additionally, the docket indicates that the case number was [REDACTED] and the file number [REDACTED]. Furthermore, the docket indicates that the applicant was convicted in the San Bernardino County Municipal Court District. The applicant submitted no documentation to confirm that the San Bernardino County Municipal Court District and the Rancho District in San Bernardino County are the same court district.

On appeal, the applicant, relying on copies of the electronic dockets, asserts that the court records do not clearly show that he was convicted of any offense, and the destroyed records of his 1992 case cannot be used establish that he had been convicted of any offense.

The applicant's arguments are without merit. First, the electronic dockets are clearly not complete, as they do not report the disposition of the offenses. Second, the record contains complete copies of all court records provided by the applicant during the initial stages of his application process. Finally, the applicant submitted a letter from the clerk of the Rancho District of the San Bernardino County Municipal Court stating that the court records of the applicant's 1992 case had been destroyed. However, the fact that his records have been destroyed does not mean the applicant was not convicted or that a conviction was dismissed vacated on its merits. The burden is on the applicant to provide affirmative evidence that he is eligible for the benefit sought.

Therefore, as the applicant has been convicted of at least three misdemeanors, he 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.