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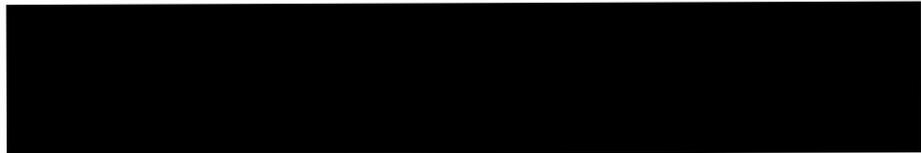
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FILE: [REDACTED]  
MSC 02 228 61233

Office: LOS ANGELES, CALIFORNIA

Date: MAR 12 2008

IN RE: Applicant:

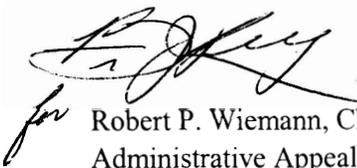


APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

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 National Benefits Center. 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.

  
for 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 in Los Angeles, California. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The district director denied the application based on a determination that the applicant was ineligible to adjust to permanent resident status under the LIFE Act because she had been convicted of a felony committed in the United States.

On appeal the applicant apologizes for the felony offense and requests that the denial of her application be reconsidered.

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 Lawful Permanent Resident status. *See* section 1104(c)(2)(D)(ii) of the LIFE Act and 8 C.F.R. § 245a.18(a)(1).

As defined in 8 C.F.R. § 245a.1(p):

*Felony* means a crime committed in the United States, punishable by imprisonment for a term of more than one year, regardless of the term such alien actually served, if any, except: When the offense is defined by the State as a misdemeanor and the sentence actually imposed is one year or less regardless of the term such alien actually served. Under this exception, for purposes of 8 CFR part 245a, the crime shall be treated as a misdemeanor.

The record contains a certified copy of an original court docket of the Municipal Court of Los Angeles, California, Van Nuys District, confirming that the applicant was arrested on or about August 31, 1990, charged with a felony offense of “hit & run causing death/injury” under section 20001(a) of the Vehicle Code (VC), and entered a plea of guilty on September 14, 1990.<sup>1</sup> Additional documentation in the record confirms that the driver of the other car involved in the accident died. VC section 20001(a) requires the driver of a vehicle involved in an accident resulting in the injury or death of another person to stop, provide personal information, render assistance, and if need be report the accident to the California Highway Patrol or police. As further provided in VC section 20001(b)(2), a violator of VC section 20001(a) is punishable by two, three, or four years incarceration in state prison if the accident results in the death or permanent, serious injury of another person. The foregoing provisions were in effect in 1990, and remain so in 2008.

Thus, the applicant’s felony conviction under California law, because it was punishable by imprisonment for a term of more than one year, also constitutes a felony for LIFE legalization purposes under the definition at 8 C.F.R. § 245a.1(p). Because of her felony conviction, the applicant is ineligible under 8 C.F.R. § 245a.18(a)(1) for adjustment to permanent resident status

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<sup>1</sup> Case No. [REDACTED]

under the LIFE Act. Within the provisions of the LIFE Act, there is no waiver available to an alien convicted of a felony, or three or more misdemeanors, committed in the United States.

An alien applying for adjustment of status under the provisions of section 1140 of the LIFE Act has the burden of proving by a preponderance of evidence that he or she has continuously resided in an unlawful status in the United States from January 1, 1982 to May 4, 1988, is admissible to the United States under the provisions of section 212(a) of the Immigration and Nationality Act, and is otherwise eligible for adjustment of status. *See* 8 C.F.R. § 245a.11. The applicant has failed to meet this burden.

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