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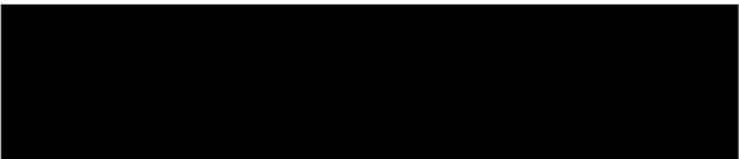


FILE: [REDACTED] Office: LOS ANGELES Date: APR 13 2009  
MSC 02 176 64158

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 if your case was remanded for further action, you will be contacted.

John F. Grissom  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Los Angeles, and the appeal was dismissed by the Administrative Appeals Office (AAO) in a decision dated November 16, 2007. The applicant has now filed a motion to reopen and reconsider his appeal. For the reasons stated below, the motion will be rejected.

The AAO dismissed the applicant's appeal on account of his three misdemeanor criminal convictions in the state of California. 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. Section 245A(b)(1)(C) of the Immigration and Nationality Act (INA); 8 U.S.C. § 1255a(b)(1)(C); 8 C.F.R. §§ 245a.11(d)(1) and 18(a)(1). The AAO also noted that subsequent expungement of the convictions pursuant to section 1203.4 of the California Penal Code did not eliminate the immigration consequences of the convictions. *Matter of Salazar-Regino*, 23 I&N Dec. 223 (BIA 2002).

The applicant submits no additional evidence with his motion. The applicant argues that the charges were "ambiguous" in that he did not understand the distinction between a misdemeanor and an infraction until late in the criminal proceedings. He asserts that the burden of explaining the nature of the criminal charges remains with the government.

The AAO finds this argument to be without merit. Initially, we note that applicants have no right to request a reopening or reconsideration of their application under the LIFE Act. 8 C.F.R. § 245a.20 (c). Furthermore, 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 INA, and is otherwise eligible for adjustment of status. 8 C.F.R. § 245a.11. In this case, the applicant cannot meet his burden of proof on account of his three misdemeanor convictions.

We find no error in the Director's decision dated September 9, 2005 denying the application or in the AAO decision dismissing the appeal dated November 16, 2007.

**ORDER:** The motion is rejected and the AAO decision dated November 16, 2007 constitutes a final notice of ineligibility.