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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529 - 2090



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE:

[Redacted]

MSC-02-250-64333

Office:

[Redacted]

Date: JUL 06 2010

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:

[Redacted]

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.

[Redacted]

Chief, Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the director of the Portland, and is now before the Administrative Appeals Office (AAO) on appeal.¹ The appeal will be dismissed.

The director denied the application, finding that the applicant is ineligible for adjustment to permanent resident status under the LIFE Act because her two misdemeanor convictions were for crimes involving moral turpitude (CIMT's).²

On appeal, counsel for the applicant requests that the applicant be permitted to file a waiver on the grounds of exceptional hardship to her spouse, who is a United States citizen. However, there is no waiver available to an alien who has been convicted of a CIMT. The applicant has not submitted any additional evidence on appeal.

As stated in 8 C.F.R. §103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed.

A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not addressed the grounds stated for denial, nor has she presented additional evidence relevant to the grounds for denial or the stated reason for appeal. The appeal must therefore be summarily dismissed.

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

¹ The AAO notes that the director erroneously instructed the applicant to submit a Form I-694, Notice of Appeal, instead of a Form I-290B, Notice of Appeal. The AAO accepts the applicant's appeal on Form I-694.

² The applicant does not contest the director's find that she has two convictions for shoplifting in Massachusetts. The law which is the subject of the applicant's convictions is codified in Massachusetts General Law chapter 266, section 30A, which proscribes taking and removing retail merchandise from a store without paying for it and with the intention of keeping it. Crimes involving fraud, deceit, and theft are generally considered to be crimes involving moral turpitude. *See, e.g., Tillinghast v. Edmeud*, 31 F.2d 81 (1st Cir. 1929) (larceny of fifteen dollars involves moral turpitude); *Pino v. Nicolls*, 215 F.2d 237 (1st Cir. 1954)(larceny of dozen golf balls involves moral turpitude), reversed on other grounds, *Pino v. Landon*, 349 U.S. 901, 75 S.Ct. 576, 99 L.Ed. 1239 (1955); *see also, Wong v. INS*, 980 F.2d 721 (1st Cir.1992) (citing cases finding that a shoplifting offense is a crime involving moral turpitude). Under these interpretations, the crime of shoplifting is a larceny that involves moral turpitude. Therefore, the AAO agrees with the finding of the director that the applicant's two convictions for shoplifting are convictions for CIMT's.

Further, an applicant who has been convicted of a CIMT is inadmissible, and therefore ineligible for permanent resident status. However, an alien with one CIMT is not inadmissible if he or she meets the petty offense exception, which requires that the maximum penalty possible for the crime of which the alien was convicted did not exceed imprisonment for one year, and that the alien was not sentenced to a term of imprisonment in excess of 6 months. 8 U.S.C. § 1182(a)(2)(A)(ii). The director found that since the applicant has two convictions which are CIMT's she does not qualify for the petty offense exception. Therefore, the applicant's CIMT convictions were grounds for denial of the application because they render her inadmissible under section 212(a)(2)(A)(i)(I) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(I), and, therefore, ineligible for adjustment to permanent resident status. The AAO agrees with the finding of the director.