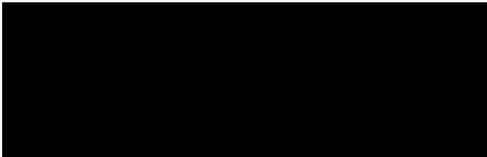


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identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



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FILE: [Redacted]

Office: California Service Center

Date: **AUG 18 2005**

IN RE: Applicant: [Redacted]

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The termination of temporary resident status by the Director, Western Service Center is before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director terminated the applicant's status because the applicant had been convicted of three misdemeanors.

On appeal, the applicant explains that the drunk driving convictions occurred during a time in his life when his only social life was in bars. He points out that his life has changed for the better, provides character references and other evidence of his reformation, and asks that he be given a second chance.

Temporary resident status may be terminated if the alien is convicted of a felony, or three or more misdemeanors. 8 C.F.R. § 245a.2(u)(1)(iii).

"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 C.F.R. Part 245a, the crime shall be treated as a misdemeanor. 8 C.F.R. § 245a.1(p).

"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 such alien 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 applicant was convicted twice on December 21, 1987 of Driving Under the Influence. The two different docket numbers, [REDACTED] and [REDACTED] demonstrate there were two convictions. He was also convicted of Trespass on April 7, 1987. These misdemeanor convictions occurred in California.

On June 16, 1985, he was arrested for Driving Under the Influence and Driving With Suspended License in Oakland, Oregon. The disposition of these offenses is unknown.

Section 245A(b)(2)(B) of the Act, 8 U.S.C. § 1255a(b)(2)(B) states temporary residence *shall* be terminated if an alien is convicted of three misdemeanors committed in the United States. In spite of the applicant's reformation, his status must be terminated.

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