



U.S. Citizenship
and Immigration
Services

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FILE:



Office: California Service Center

Date:

JUL 19 2005

IN RE:

Applicant:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 failed to provide criminal dispositions, thereby preventing the director from determining that the applicant was eligible.

On appeal, the applicant indicated that he lost the notice of intent to terminate. He did not address the basis for termination.

It is noted that the notice of termination did not specify the reason for termination. Thus, as the applicant had lost the case-specific notice of intent to terminate, he may have been unaware of the reason for termination when he filed this appeal. However, the director then denied the applicant's adjustment application for permanent residence, in which he specified that the reason for denial was the failure to provide dispositions. Therefore, it is concluded that the applicant is aware of the basis for both negative actions (termination and denial). It is further noted that the applicant did not appeal the denial of adjustment to permanent residence.

Temporary resident status may be terminated if the alien is convicted of a felony or three or more misdemeanors, or if he commits an act that makes him inadmissible to the United States, or if it appears that he was not eligible for such status in the first place. *See* section 245A(b)(2) of the Act; 8 U.S.C. § 1255a(b)(2).

"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).

During his interview for temporary resident status on January 7, 1988 the applicant indicated that he had been arrested twice. On his later application for adjustment to permanent resident status, where it asked if he had been arrested since becoming a temporary resident, he stated that he had been arrested for a charge related to automobile theft or unlawful use of automobile. He stated he "got out because it was not my fault."

In the notice of intent to terminate, the director advised the applicant that he should provide the actual court dispositions relating to the charges noted above, *or* certified letters from the courts where the hearings were held. He also directed the applicant to furnish either an "H-6" or DL-414 report from the California

Department of Motor Vehicles, which would show dispositions of vehicular arrests. The applicant never provided any of these documents.

Declarations by an applicant that he has not had a criminal record are subject to a verification of facts by the Service. The applicant must agree to fully cooperate in the verification process. Failure to assist the Service in verifying information necessary for the adjudication of the application may result in a negative determination. *See* 8 C.F.R. § 245a.2(k)(5).

It is concluded that the applicant has failed to provide documents necessary for the adjudication of the application. Therefore, the appeal must be dismissed on this basis.

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