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U.S. Department of Homeland Security  
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Washington, D.C. 20529



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: DEC 22 2006  
XPO 88 521 02030

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. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
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 temporary resident status because the applicant had failed to submit the requested court dispositions.

The temporary resident status of an alien who has been convicted of a felony or three or more misdemeanors in the United States may be terminated at any time. 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 FBI report reflects that on June 8, 1970 the applicant was arrested by the El Paso Police Department in Texas for shoplifting.

The FBI report also reflects that on April 24, 1981, a warrant of arrest was issued by the Sheriff's Office in Santa Ana, California for attempt receiving of known stolen property, a violation of section 664/496 California Penal Code.

On July 10, 1991, the director issued a Notice of Intent to Terminate, advising the applicant of his intent to terminate the applicant's status as a temporary resident unless evidence was submitted establishing no convictions had occurred. The applicant was given 30 days in which to submit the court dispositions for both arrests. The notice, however, was returned by the post office as undeliverable.

On appeal, the applicant asserted that she never received the Notice of Intent to Terminate.

On December 8, 2004, the director sent a copy of the Notice of Intent to Terminate to the applicant. It is not known if the applicant actually received the notice as it was sent to her old address. As such, on October 19, 2006, this office sent another copy of the Notice of Intent to Terminate to the applicant's new address of record. The applicant was given 45 days in which to respond. To date, however, no correspondence has been presented by the applicant and the notice has not been returned by the post office as undeliverable.

Declarations by an applicant that he or she has not had a criminal record are subject to verification of facts by Citizenship and Immigration Services (CIS). The applicant must agree to fully cooperate in the verification process. Failure to assist CIS in verifying information necessary for the adjudication of the application may result in a denial of the application. 8 C.F.R. § 245a.2(k)(5).

The applicant is ineligible for the benefit being sought as she has failed to provide the court dispositions for the above arrests necessary for the adjudication of the application.

An alien applying for adjustment of status has the burden of proving by a preponderance of evidence that he or she is admissible to the United States under the provisions of section 245a of the Immigration and Nationality Act, and is otherwise eligible for adjustment of status. 8 C.F.R. § 245a.2(d)(5). The applicant has failed to meet this burden.

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