



U.S. Citizenship  
and Immigration  
Services

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FILE:

XFR-89-503-1018

Office: CALIFORNIA SERVICE CENTER

Date: JUL 21 2006

IN RE:

Applicant:

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 210 of the  
Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the service center that processed 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, Chief  
Administrative Appeals Office

**DISCUSSION:** This matter is an application for temporary resident status denied by the Director, California Service Center. The matter is before the Administrative Appeals Office (AAO), on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to assist the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS) in determining the final disposition of the criminal charges against him and because of his criminal convictions.

On appeal, the applicant states that he did not receive a copy of the request for more information regarding his criminal history. The applicant's counsel states that the applicant only has two convictions. Subsequently, the applicant submits a court record from Inglewood Courthouse, County of Los Angeles, State of California reflecting that:

1. On March 21, 1988, the applicant pled guilty to the charge of .08% More Wght Alchl Drive Veh.

The applicant also submits a court record from the Municipal Court of California, County of Los Angeles, State of California reflecting that;

2. The applicant was convicted during those same proceedings of violation of 166(A)(4) of the California Penal Code, Contempt of Court: Disobey Crt Ord.

An alien who has been convicted of a felony or three or more misdemeanors in the United States is ineligible for temporary resident status. 8 C.F.R. § 210.3(d)(3).

"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 the term "felony" of this section. 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).

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

On May 29, 1992, the applicant was sent a Notice of Intent to Deny asking him to submit court dispositions of all his arrests. In response, the applicant submitted a copy of a page of a California Criminal History Transcript reflecting two charges, one charge was dismissed, the other one was a conviction referred to elsewhere in the decision. The applicant also submitted a California Department of Motor Vehicles driving record for the applicant indicating that from January 1, 1986 to December 6, 1991, the applicant was charged with 13 violations of the California Vehicular Code, resulting in at least eight convictions.

Citizenship and Immigration Service (CIS) records reflect the following additional arrests and/or convictions:

1. On November 14, 1975, Los Angeles Police Department, violation of 484 PC Theft, disposition, guilty;
2. On August 4, 1989, Los Angeles Police Department, violation of 654 PC sell/etc. Public Transportation, disposition, guilty;
3. On October 11, 2000, Glendale Police Department, 1 count of Bat, Spouse/Ex/Date/Etc., disposition unknown;
4. On October 12, 2004, Los Angeles Police Department, 1 count of Bat, Spouse/Ex/Date/Etc., disposition unknown.

The applicant is ineligible for temporary resident status because of his more than 3 misdemeanor convictions. 8 C.F.R. § 210.3(d)(3). Within the legalization program, there is no waiver available to an alien convicted of a felony or three misdemeanors committed in the United States.

An alien applying for temporary resident status had the burden of proving by a preponderance of the evidence that he or she is admissible to the United States under the provisions of section 210(c) of the Act, 8 U.S.C. 1160, and is otherwise eligible for temporary resident status under this section. 8 C.F.R. § 210.3(b)(1). The applicant has failed to meet this burden.

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