

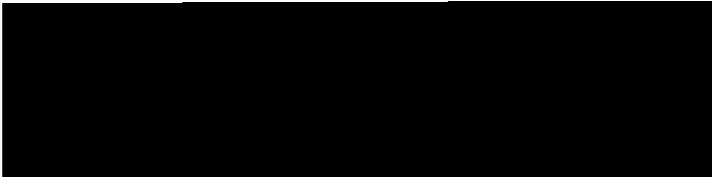
**Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**



**U.S. Citizenship  
and Immigration  
Services**

L1

**PUBLIC COPY**



FILE: [REDACTED]  
XPW 91 044 0395

Office: CALIFORNIA SERVICE CENTER

Date: **NOV 14 2008**

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Adjustment from Temporary to Permanent 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 application for adjustment from temporary to permanent resident status was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant had been convicted of three misdemeanors, and he was therefore ineligible for adjustment from temporary to permanent resident status.

On appeal, the applicant states that some of his court cases have been dismissed and paid. The applicant asserts, in part:

When I received my citations I was not aware that I had to go to court. I was not aware of the law rules and regulations of the U.S.A. I'll admit [sic] I was wrong but now I want to be a good citizen and stay here in this country.

An alien who has been convicted of a felony or three or more misdemeanors in the United States is ineligible for adjustment to permanent resident status. 8 C.F.R. § 245a.3(c)(1).

"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 Form K-4 dated April 26, 1988 from the California Department of Motor Vehicles (DMV) revealed the following:

1. On November 6, 1985, the applicant was arrested and subsequently charged with violating section 40508(a) VC, failure to appear pursuant to violating section 12500(a) VC, driving without a license. On August 5, 1986, the applicant was convicted of this misdemeanor offense. Case no. ORC454.

The applicant indicated on his Form I-698 application filed on November 26, 1990, that since becoming a temporary resident alien he had been arrested, convicted or confined in a prison. On February 9, 1991, the applicant was requested to submit the court dispositions for all arrests along with a Form DL 414 from the California DMV. The applicant, in response, submitted documentation dated February 15, 1991 from the Orange County Sheriff's Department which revealed the following:

2. On June 22, 1990, the applicant was arrested and charged with violating section 853.7 PC, willful violating of written promise to appear and violating Santa Ana Municipal Code 10.33, drinking in public. Case no. [REDACTED]. The applicant was also arrested for violating section 148.9 PC, falsely representing self to a peace officer.
3. On August 22, 1990, the applicant was charged with violating section 23152(a) VC, driving under the influence of alcohol. Case no. [REDACTED]
4. On August 24, 1990, the applicant was charged with violating section 23152(a) VC, driving under the influence of alcohol. Case no. [REDACTED]

The applicant also submitted a Form H-6 from the California DMV, which revealed the offense in number one above as well as the following:

5. On July 21, 1990, the applicant was arrested for driving under the influence and driving with .08 percent or more alcohol in the blood, violations of sections 23152(a) and (b) VC. On August 22, 1990, the applicant was convicted of both offenses. Case no. [REDACTED]

On March 5, 1992, the director issued a Notice of Intent to Terminate advising the applicant of his misdemeanor convictions in numbers one and five above. The director informed the applicant that at the time of his interview on June 24, 1988, he had admitted to an arrest in 1982 for petty theft. The applicant was also informed of his arrest in number two above. The applicant was requested to submit the court dispositions for numbers two through four above as well as the court disposition for his petty theft arrest in 1982. The applicant was granted 30 days in which to submit the request documents. The applicant, however, failed to respond to the notice.

On appeal, the applicant submits several court dispositions which revealed the following:

6. Regarding number two above, on October 21, 1986, the applicant was arrested for violating Santa Ana Municipal Code 10.33, drinking in public and section 853.7 PC, willful violating of written promise to appear, both misdemeanors. The applicant failed to appear in court on November 26, 1986 and a warrant was issued on December 16, 1986. An abstract of warrant was returned to court on June 25, 1990. On June 25, 1990, the applicant pled guilty to both offenses. For violating SAMC 10.33, the sentence was suspended and for violating 853.7 PC, the applicant was sentenced to serve eight days in jail. Case nos. [REDACTED] and [REDACTED]
7. Regarding number three above, on July 21, 1990, the applicant was arrested for violating section 23152(a) VC, driving under the influence of alcohol and section 23152(b), driving with .08 percent or more alcohol in the blood. On August 22, 1990, the applicant was convicted of violating section 23152(a) VC, a misdemeanor. The applicant was sentenced to serve two days in jail, ordered to pay a fine and placed on probation for three years. The remaining charge was suspended. Case no. [REDACTED]
8. On June 25, 1991, the applicant was arrested for violating section 12500(a) VC, driving without a license, and section 14601.1(a) VC, driving while license is suspended or revoked, both misdemeanors. On August 9, 1991, the applicant was convicted of driving while license is suspended or revoked. The applicant was sentenced to serve time in jail, ordered to pay a fine and placed on probation for three years. The remaining charge was suspended. Case no. [REDACTED]

The applicant also submits court documentation from the Orange County Municipal Court, which indicates that the applicant had another case ([REDACTED]) in its jurisdiction. The applicant, however, did not provide the court disposition for this case.

The applicant must agree to fully cooperate in the verification process. Failure to assist Citizenship and Immigration Services 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, on appeal, presumes that because he has complied with all of the courts' requirements his criminal record would now be clean. However, mere compliance with a court order neither alleviates the applicant of any convictions that had occurred nor dismisses or expunges any convictions.

The applicant is ineligible for adjustment to permanent resident status because he has been convicted of at least three misdemeanors in the United States. 8 C.F.R. § 245a.3(c)(1). No waiver of such ineligibility is available. The applicant is also ineligible because he failed to provide the court documents in case number 82CM0243 necessary for the adjudication of the application.

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