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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:



XPS 91 107 00109

Office: TEXAS SERVICE CENTER

Date: **NOV 14 2006**

IN RE:

Applicant:



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.

A handwritten signature in black ink, appearing to read "D. King".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for adjustment from temporary to permanent resident status was denied by the Director, Texas 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 in the United States, and he was therefore ineligible for adjustment from temporary to permanent resident status.

On appeal, the applicant requests that his application be reconsidered as "I haven't been in any trouble since my last offense in 1990," and he has a family to support.

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).

At the time the applicant filed his Form I-698 application, he indicated that he had been convicted of driving while impaired. Accordingly, on May 21, 1991 and November 17, 2005, the director issued a notice requesting that the applicant submit the arrest reports and court dispositions for *all* arrests. The applicant, in response, submitted court dispositions from the Alamance, Forsyth and Guilford County Courts in North Carolina, which revealed the following:

1. On May 11, 1985, the applicant was arrested for driving while impaired, a misdemeanor. On July 10, 1985, the applicant was convicted of this offense. The applicant was sentenced to serve time in jail, ordered to pay a fine and placed on probation for one year. Case no. [REDACTED]
2. On December 20 1985, the applicant was arrested for no operator's license, a misdemeanor. On February 5, 1986, the applicant was convicted of this offense and ordered to pay a fine. Case no. [REDACTED]
3. On March 9, 1986, the applicant was arrested for no operator's license, driving while license is revoked and driving while impaired. On March 11, 2006, the applicant was convicted of driving while license is revoked and driving while impaired, both misdemeanors. The applicant was sentenced to serve time in jail, ordered to pay a fine and placed on probation for four years. Case no. [REDACTED]. The no operator's license charge was dismissed. Case no. [REDACTED]
4. On March 10, 1990, the applicant was arrested for driving while license is revoked and driving while impaired, both misdemeanors. On March 29, 1990, the applicant was convicted of both offenses. The applicant was sentenced to serve time in jail, ordered to pay a fine and placed on probation for five years. Case no. [REDACTED] & [REDACTED]

The applicant is ineligible for adjustment to permanent resident status because of his six misdemeanor convictions. 8 C.F.R. § 245a.3(c)(1). No waiver of such ineligibility is available.

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