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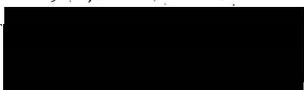
U.S. Citizenship
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FILE:



Office: CALIFORNIA SERVICE CENTER

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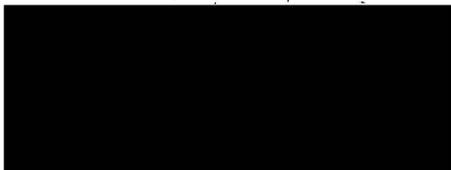
Applicant:



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:



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 Director, Western Service Center terminated the applicant's temporary resident status. The case was remanded by the Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO). The matter is now before the AAO on appeal. The appeal will be dismissed.

The director terminated the applicant's status because the applicant had been convicted of three misdemeanors in the United States.

On appeal the applicant requested a copy of the record of proceedings. The applicant stated that a brief would be submitted within 30 days after the receipt of his file.

The case was remanded by the LAU on November 23, 1993 for processing of the applicant's request. On February 9, 2005, the applicant's request for a copy of the record of proceedings was processed and was sent to his address of record. However, the correspondence was returned by the post office as undeliverable. The record contains no evidence of a change of address.

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. § 245a.2(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).

On his Form I-698 application, the applicant indicated that he had been arrested. As such, on September 10, 1992, the director issued a Notice of Intent to Terminate, advising the applicant to submit the court dispositions for his arrests and a Form DL-414 or H-6 from the California Department of Motor Vehicles. The applicant, in response, submitted a Form H-6 dated October 7, 1992 and a court disposition which revealed the following:

1. On July 28, 1990, the applicant was arrested for driving without a license, a violation of section 12500(a) VC, a misdemeanor. On September 18, 1990, the applicant was convicted of this offense. [REDACTED]
2. On or about June 30, 1991, the applicant was arrested for driving under the influence, a violation of section 23152(a) VC; driving with .08 percent or more alcohol in the blood, a violation of section 23152(b) VC; and hit and run resulting in property damage, a violation of section 2002(a) VC. On September 10, 1991, the applicant was convicted of violating section 23152(b) 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 offenses were dismissed. [REDACTED]
3. On December 18, 1991, the applicant was arrested for driving while license is suspended or revoked for driving under the influence, a violation of section 14601.2 VC. On January 7, 1992, the applicant was convicted of this offense. The applicant was sentence to serve time in jail and placed on probation for three years. [REDACTED]

On appeal, the applicant asserts that he is eligible for the benefit being sought "and that denial due to alleged criminal convictions is erroneous. I am in the process of obtaining all relevant court documents regarding said matters."

The court disposition and Form H-6 clearly reflect that the applicant was convicted of the three offenses noted above. The applicant has not provided any evidence to dispute the director's findings. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The applicant has been convicted of three misdemeanors and, therefore, is ineligible for the benefit being sought. 8 C.F.R. § 245a.2(u)(1)(iii). Within the legalization program, no waiver is available to an alien convicted of a felony or three or more misdemeanors committed in the United States. 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.