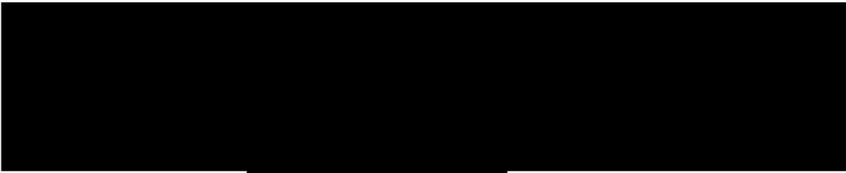




U.S. Citizenship
and Immigration
Services

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invasion of personal privacy

LI



FILE: [REDACTED]
XHO 88 150 4036

Office: CALIFORNIA SERVICE CENTER

Date: FEB 12 2007

IN RE: 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: 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. 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: The application for temporary resident status was denied by the Director, California Service Center. The matter subsequently came before the Administrative Appeals Office (AAO) on appeal and was remanded pending further litigation of *Proyecto San Pablo v. Immigration and Naturalization Service*, 784 F. Supp. 738 (D. Ariz. 1991). The matter is back before the AAO on appeal. The appeal will be dismissed.

The director determined that the applicant was deported on August 3, 1987. Accordingly, the director concluded that the applicant is ineligible to adjust his status to that of a temporary resident because his continuous residence was interrupted by an absence, which resulted from an order of deportation after January 1, 1982.

On appeal, the applicant disputes the director's finding and asserts that he is eligible for the benefit sought. He also requests a copy of his legalization file. The record shows that Citizenship and Immigration Services (CIS) complied with the applicant's Freedom of Information Act request on May 31, 1991. However, to date, the applicant has not provided evidence or information to overcome the ground cited in the director's denial dated March 11, 1999.

An applicant for temporary residence must establish entry into the United States before January 1, 1982, and continuous residence in the United States in an unlawful status since such date and through the date the application is filed. Section 245A(a)(2) of the Act, 8 U.S.C. § 1255a(a)(2). An alien shall not be considered to have resided continuously in the United States, if, during any period for which continuous residence is required, the alien was outside the United States under an order of deportation. Section 245A(g)(2)(B)(i) of the Act, 8 U.S.C. § 1255a(g)(2)(b)(i).

Furthermore, while not discussed in the director's decision, the record shows that the applicant has been arrested and/or convicted for the following offenses:

1. On May 20, 1985, the applicant was convicted of driving under the influence in violation of section 23152b VC. Docket No. [REDACTED]
2. On May 21, 1985, the applicant was convicted of failure to appear in violation of section 40508a VC. Docket No. [REDACTED]
3. On July 23, 1986, the applicant was arrested for grand theft auto in violation of section 487 PC. The applicant was not prosecuted for this offense.
4. On July 30, 1987, the applicant pled guilty and was convicted of possession of a false identification document, a misdemeanor in violation of 18 U.S.C. §§ 1028(a)(4) and (b)(3). Case No. [REDACTED]
5. On September 25, 1987, the applicant was arrested for sexual battery. The disposition for this offense is unknown.

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). Thus, the applicant is no longer eligible for temporary residence on this basis as well.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a de novo basis).

The applicant is ineligible for temporary residence for the above stated reasons, with each considered as an independent and alternative basis for denial.

Additionally, as stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed.

A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional evidence. Nor has he addressed the grounds stated for denial. The appeal must therefore be summarily dismissed.

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