



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
SRC 02 135 52677

Office: TEXAS SERVICE CENTER

Date: FEB 26 2007

IN RE: Applicant: [REDACTED]

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 Director, Texas Service Center, denied the application for temporary resident status. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to submit the final court dispositions of his four arrests.

On appeal, the applicant¹ states: "I was not convicted of any aggravated felony nor is there evidence that I committed these offenses. I am not ineligible merely by reason that allegations were made which were not supported by evidence or formal prosecution." The applicant further stated that he would submit a brief with additional evidence within 30 days. The applicant dated his appeal October 4, 2003. To date, over three years later, the AAO has received nothing further from the applicant.

Citizenship and Immigration Services (CIS) records show that the applicant has been arrested four times: First, by the Santa Ana, California Sheriff's Office on May 8, 1987 for "trespass injure property;" Second, by the Santa Ana, California Sheriff's Office on April 7, 1987 for "petty theft;" Third, by the Santa Ana, California Police Department on November 28, 1996 for "murder;" and Fourth, by the Santa Ana, California Police Department on May 3, 1997 for "great bodily harm death to child."

Final court dispositions of the applicant's arrests are necessary to determine his eligibility for temporary resident status. An alien is ineligible for temporary residence if he has been convicted of a felony, or three or more misdemeanors committed in the United States. Section 245A(a)(4)(B) of the Act, 8 U.S.C. § 1255a(a)(4)(B). An alien is also ineligible for temporary residence if he is inadmissible to the United States as an immigrant. Section 245A(4)(A) of the Act, 8 U.S.C. § 1255a(a)(4)(A). An alien is inadmissible to the United States if he has been convicted of a crime involving moral turpitude (other than a purely political offense), or if he admits having committed such crime, or if he admits committing an act which constitutes the essential elements of such crime. Section 212(a)(2)(A)(i)(I) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(I).

On appeal, the applicant asserts that there is no evidence that he committed the offenses for which he was arrested. Yet the applicant does not provide the requested documentation of the final disposition of his three arrests or otherwise provide evidence that he has not been convicted of a felony, three misdemeanor offenses or a crime involving moral turpitude.

The applicant bears the burden of proof to establish his eligibility for temporary resident status by a preponderance of the evidence. 8 C.F.R. § 245a.2(d)(5). Declarations by an applicant pertinent to his criminal record are subject to a verification of facts by CIS. 8 C.F.R. § 245a.2(k)(5). The

¹ The appeal was filed by the attorney [REDACTED]. The Supreme Court of Kansas disbarred [REDACTED] from the practice of law on August 31, 2004. On October 22, 2004, the Executive Office for Immigration Review (EOIR) suspended [REDACTED] from the practice of law before EOIR and the U.S. Department of Homeland Security. Accordingly, we do not recognize [REDACTED] as the applicant's representative in this proceeding.

applicant must cooperate fully in the verification process and failure to assist CIS in verifying information necessary for the adjudication of the application may result in a negative determination. *Id.* The applicant failed to provide documentation of the final dispositions of his arrests for four criminal offenses that was necessary for the adjudication of his application. The director was consequently unable to determine that the applicant was eligible for temporary resident status. On appeal, the applicant does not submit the requested evidence or otherwise overcome the ground for denial. Accordingly, the appeal must be dismissed.

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