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U.S. Citizenship
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FILE: [REDACTED]
XRO 88 122 1032

Office: TEXAS SERVICE CENTER

Date: **JUL 16 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:



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: This termination of the applicant's temporary resident status by the Director, Texas Service Center is before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director terminated the applicant's temporary resident status because his application for adjustment of status from temporary to permanent residence had been denied, and it had been more than 43 months since the approval of temporary residence.

On appeal, counsel stated that there is no evidence in the record to support the termination of the applicant's temporary resident status based on his felony conviction. Counsel indicated that he had filed a Freedom of Information Act (FOIA) request and would submit a brief within 30 days of receipt of a copy of the applicant's record of proceeding.

A copy of the record of proceeding was mailed to counsel on April 16, 2007. To date, counsel has not submitted a brief or any additional evidence to supplement the applicant's appeal. Therefore, the record will be considered complete.

Temporary residence shall be terminated at the end of the 43rd month beginning after the date the alien is granted such status, unless the alien has applied for adjustment to permanent residence and such application has not been denied. See Section 245A(b)(2)(C) of the Act.

The record reveals that the applicant was granted temporary resident status on April 6, 1992. The application for adjustment from temporary to permanent resident status was denied on June 25, 1996, because it was determined that the applicant was convicted of a felony. The finding that the applicant had been convicted of a felony was based on a court disposition document previously submitted into the record by the applicant in response to a request for additional evidence. The document in question is a court disposition document from the Justice's Court, Elko Township, County of Elko, State of Nevada, which reveals that the applicant was convicted in that court on February 18, 1992, of one count of driving under the influence of intoxicating liquor within seven years after being convicted twice of the same offense in violation of section 484.3792(1)(c) of the Nevada Code. It is noted that certified copies of prior DUI convictions on September 2, 1988 and February 27, 1990, were admitted during the trial as state's exhibits #3 and #4.

The application for adjustment of status has been denied, and it has been more than 43 months since the grant of temporary residence. Therefore, temporary residence shall be terminated.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility for temporary resident status.