



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

LI



FILE:

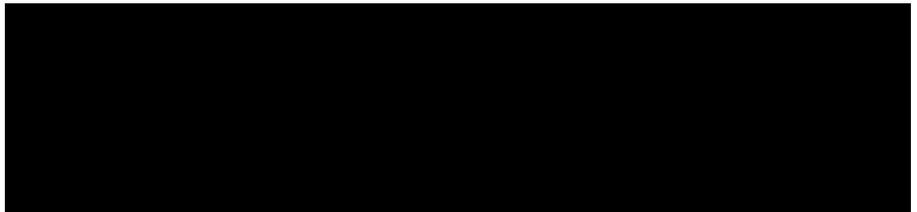
XOX 88 048 1198

Office: CALIFORNIA SERVICE CENTER

Date: JUN 26 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 termination of the applicant's temporary resident status by the Director, California Service Center, is before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant was granted temporary resident status on May 13, 1989, under section 245A of the Immigration and Nationality Act (Act), as amended, 8 U.S.C. § 1255a. The applicant was required to file an application to adjust status from temporary to permanent resident within forty-three (43) months of receiving his temporary resident status. *See* 8 C.F.R. § 245a.3(b)(1). Pursuant to section 245A(b)(2)(C) of the Act, 8 U.S.C. § 1255a(b)(2)(C), a failure to file an application for adjustment to permanent residence within this statutory filing period will result in the termination of the applicant's temporary residence. The applicant filed his application to adjust status from temporary to permanent resident on March 20, 2002, which is outside the statutory filing period.

The director terminated the applicant's temporary resident status because the applicant failed to file the application for adjustment of status from temporary to permanent residence within the 43-month application period.

On appeal, the applicant contends that he failed to file an application for adjustment to permanent residence within the 43-month application period because he was never informed that he had been granted temporary resident status.¹

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed solely on the basis of a denial for failure to file the application for adjustment of status under section 210 or 245A in a timely manner, will be summarily dismissed.

It is noted that the applicant's Federal Bureau of Investigation (FBI) fingerprint results report indicates that the applicant was arrested in Ventura, California, on June 17, 1983, and charged with grand theft, property. The fingerprint results report does not indicate the final court disposition of this arrest.

The applicant was subsequently arrested in Ventura, California, on September 8, 1987, and charged with providing false identification to a police officer in violation of section 148.9 of the California

¹ It is noted that the record contains a Form G-28, Notice of Entry of Appearance as Attorney or Representative, signed by [REDACTED] who indicates that he wishes to appear on the applicant's behalf as a law graduate pursuant to section 292.1(A)(2) of the Act. Pursuant to 8 C.F.R. § 292.1(a)(2)(iii), a law graduate must submit a statement that he or she is appearing under the supervision of a licensed attorney or accredited representative and that he or she is appearing without direct or indirect remuneration from the alien he or she represents. In this case, [REDACTED] has not submitted such a statement. [REDACTED] is not authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant. See <http://usdoj.eoir/statspub/raroster.htm>. Therefore, the applicant will be considered self-represented and the decision will be furnished to the applicant only.

Penal Code, a misdemeanor. The fingerprint results report indicates that the applicant was convicted of this charge and sentenced to three days imprisonment.

On October 17, 1993, the applicant was arrested in Ventura, California, and charged with driving without a valid driver's license in violation of Section 12500(a) of the California Vehicle Code, a misdemeanor. The applicant was subsequently convicted of this charge and ordered by the Superior Court of California, State of California, County of Ventura, to pay \$142.20 in fines and \$251.00 in fees. As of July 1, 2004, this case was still active. (Docket Number [REDACTED]) This information is derived from a minute order from the Superior Court of California, State of California, County of Ventura.

On February 5, 1995, the applicant was arrested in Ventura, California, and charged with petty theft with a prior conviction and imprisonment on a theft-related charge in violation of section 666 of the California Penal Code. According to the fingerprint results report, the Superior Court of California, State of California, County of Ventura, convicted the applicant of this charge and sentenced him to 10 days imprisonment and 36 months probation. Pursuant to Section 666 of the California Penal Code, every person who, having been convicted of petty theft, grand theft, auto theft under Section 10841 of the Vehicle Code, burglary, carjacking, robbery, or a felony violation of Section 496 of the California Penal Code and having served a term therefore in any penal institution or having been imprisoned therein as a condition of probation for that offense, is subsequently convicted of petty theft, then the person convicted of that subsequent offense is punishable by imprisonment in the county jail not exceeding one year, or in the state prison. The fingerprint results report indicates that the complaint was initially filed as a felony, but does not indicate whether the applicant was convicted of the charge as a felony or a misdemeanor.

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). Due to insufficient documentation in the record, the AAO cannot determine whether the applicant is ineligible for adjustment on the basis of his criminal history.

An alien applying for adjustment of status has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States under the provisions of section 245A of the Act, and is otherwise eligible for adjustment of status. 8 C.F.R. § 245a.2(d)(5).

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