

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



**U.S. Citizenship
and Immigration
Services**

PUBLIC COPY

41

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **APR 02 2008**
XNK-87-333-03119

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The termination of temporary resident status by the Director, Western Service Center, is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director found that the applicant had been convicted of one criminal offense and arrested and charged with three other criminal offenses. The director issued a notice of intent to terminate based on the applicant's possible convictions for these criminal offenses. The director allowed the applicant thirty days to submit evidence, namely court dispositions, to overcome the grounds for ineligibility. The director determined that the applicant failed to respond to this notice and ordered the termination of his status as a temporary resident.

On appeal, the applicant asserts that he never received the notice of termination. The applicant asserts that the Immigration and Naturalization Service (the Service) sent the notice to [REDACTED] while his correct address at that time was [REDACTED]. The applicant further asserts that, "the Service had somehow a different name plus final disposition of 2 misdemeanor arrests."

The record shows that the applicant is correct in his assessment that the Service made an error in his mailing address. Evidently, the applicant has since received the notice of termination since he is aware of this typo in his address and he subsequently filed a Form I-694, Notice of Appeal.

The regulation at 8 C.F.R. § 245a.2(p) delineates a 30 day period for the filing of an appeal. Three additional days are added to this prescribed period for service by mail. 8 C.F.R. § 103.5a(b). The director issued the notice of termination on March 27, 1992. The Notice of Appeal was received as filed 52 days later on May 18, 1992. However, since the applicant's delay in filing the notice of appeal was due error to the Service's error, this appeal will be accepted as timely filed.

The record shows that the director properly sent the notice of intent to terminate via certified mail to the applicant's last known address at [REDACTED]. The director obtained the applicant's address from his Form I-697A, Change of Address Card, postmarked March 14, 1990. The record contains a return receipt for the postal delivery of this notice to the applicant's address.

The director's notice of intent to terminate notified the applicant of the proposed reasons for the termination of his status. The director determined that the applicant's record reflects he was convicted on July 19, 1985 of *unlawfully driving a vehicle while under the influence of intoxicating liquor* in violation of section 23152(a) of the California Vehicle Code (Docket No. [REDACTED]). The director further determined that the applicant's record reveals he was arrested on February 11, 1988 and charged with the following violations of the California Vehicle Code: *unlawfully driving a vehicle while under the influence of intoxicating liquor* in violation of section 23152(a); *driving under the influence of 0.1% of alcohol in bloodstream* in violation of section 23152(b); and *driving with a suspended or revoked license* in violation of section 14601.1(a).

The director afforded the applicant 30 days from the date of the notice to submit evidence to overcome the grounds for ineligibility. The director specifically provided the applicant with instructions on obtaining court dispositions. The applicant failed to submit any additional evidence in rebuttal to the director's notice of intent to terminate. On March 27, 1992, the director issued a notice of termination to the applicant, finding that he had not overcome the grounds for ineligibility.

A review of the decision reveals that the director accurately set forth a legitimate basis for the termination of the applicant's temporary resident status. On appeal, the applicant has not presented additional evidence. Nor has he specifically addressed the basis for denial.

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

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