

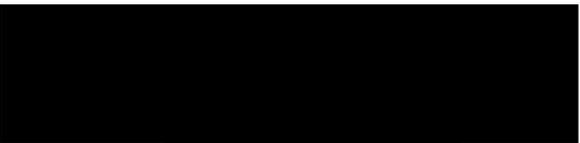


U.S. Citizenship  
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FILE: [REDACTED]  
XVN 88 507 2084

Office: CALIFORNIA SERVICE CENTER

Date: FEB 28 2008

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Resident Status under 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, Western Service Center, terminated the applicant's temporary resident status. The applicant appealed the director's decision. The matter is now before the Administrative Appeals Office (AAO). The AAO will dismiss the appeal.

The director terminated the applicant's temporary resident status based on the applicant's failure to comply with the request issued in the notice of intent to terminate (NOIT) instructing the applicant to provide final court dispositions for various offenses that led to the applicant's arrests.

On appeal, the applicant claims that he never received the previously issued NOIT and maintains that he has resided in the United States during the statutorily relevant time period. The AAO notes, however, that both the NOIT and final notice of termination were sent the same address, i.e., the applicant's last known address of record. As such, the record shows that the director made every effort to ensure the applicant's receipt of notices pertaining to his temporary resident status.

An applicant who has been convicted of a felony or three or more misdemeanors in the United States is ineligible for adjustment to temporary resident status. Section 245A(a)(4)(B) of the Immigration and Nationality Act (the Act); 8 U.S.C. § 1255a(a)(4)(B). The regulations provide relevant definitions at 8 C.F.R. § 245a.

"Felony" means a crime committed in the United States punishable by imprisonment for a term of more than one year, regardless of the term such alien actually served, if any, except when the offense is defined by the state as a misdemeanor, and the sentence actually imposed is one year or less, regardless of the term such alien actually served. Under this exception, for purposes of 8 C.F.R. Part 245a, the crime shall be treated as a misdemeanor. 8 C.F.R. § 245a.1(p).

"Misdemeanor" means a crime committed in the United States, either (1) punishable by imprisonment for a term of one year or less, regardless of the term such alien actually served, if any, or (2) a crime treated as a misdemeanor under 8 C.F.R. § 245a.1(p). For purposes of this definition, any crime punishable by imprisonment for a maximum term of five days or less shall not be considered a misdemeanor. 8 C.F.R. § 245a.1(o).

An alien is inadmissible 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, formerly section 212(a)(9) of the Act.

The most commonly accepted definition of a crime involving moral turpitude is an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow men or to society in general, contrary to the accepted and customary rule of right and duty between man and man. *Jordan v. De George*, 341 U.S. 223, reh'g denied, 341 U.S. 956 (1951).

An alien is inadmissible if he has been convicted of, or admits having committed, or admits committing acts which constitute the essential elements of a violation of (or a conspiracy to violate) any law or regulation of a

State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 USC 802). Section 212(a)(2)(A)(i)(II) of the Act, formerly section 212(a)(23) of the Act. An alien is also inadmissible if a consular officer or immigration officer knows or has reason to believe he is or has been an illicit trafficker in any such controlled substance. Section 212(a)(2)(C) of the Act, formerly section 212(a)(23) of the Act.

In the present matter, the record shows that the applicant was arrested for the following criminal offenses in the State of California:

1. On June 4, 1983, the applicant was arrested for assault with a deadly weapon and possession of a dangerous weapon. The applicant was not formally charged or convicted for either of these offenses.
2. On February 18, 1984, the applicant was arrested for possession of a narcotic controlled substance.
3. On September 20, 1984, the applicant was arrested for assault with a deadly weapon other than a firearm.
4. On May 26, 1985, the applicant was arrested for possession/sale of a deadly weapon.
5. On December 16, 1987, the applicant was arrested for battery on a person.

In the NOIT dated December 4, 1989, the director informed the applicant of the offenses listed above and requested that the applicant provide the final court dispositions for the offenses in Nos. 2-5. He was allowed 30 days in which to provide the requested documentation. However, the record shows that the applicant failed to comply with the director's request.

The regulations at 8 C.F.R. § 245a.2(k)(5) state the following:

Declarations by an applicant that he has not had a criminal record are subject to a verification of facts by the Service. The applicant must agree to fully cooperate in the verification process. Failure to assist the Service in verifying information necessary for the adjudication of the application may result in a denial of the application.

In the present matter, the applicant failed to comply with the above regulation requiring him to assist Citizenship and Immigration Services by providing certain documentation. Therefore, the applicant has failed to establish that he is statutorily eligible for temporary resident status.

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