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U.S. Citizenship
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FILE:

XPW-91-029-00811

Office: LOS ANGELES

Date: JUL 01 2008

IN RE:

Applicant:



APPLICATION: Application for Adjustment from Temporary to Permanent 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. The file has 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.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary to permanent resident status pursuant to section 245A of the Immigration and Nationality Act (Act) was denied by the Director, Los Angeles District Office, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because he found that the applicant had been convicted of three misdemeanors and, therefore, was ineligible for adjustment to permanent resident status.

On appeal, the applicant stated that he qualifies for the relief sought because of errors in the records presented by the director, because the records do not reflect the individual dismissals in each case, where many counts were dropped. The applicant stated that Section 17 of the California Penal Code allows many minor traffic violations to be considered infractions. The applicant also requested that the violations be waived because they were minor and only occurred due to the applicant's inability to obtain a driver's license. The applicant has helped to raise his grandchildren and has many family ties and equities. The applicant provided affidavits of several individuals who attested to his character, together with copies of identity documents for the affiants. The applicant indicated that he would submit a brief within 30 days. More than three months have passed since the appeal was submitted, and the applicant has failed to submit a brief. Therefore, the record will be considered complete.

An applicant who has been convicted of three or more misdemeanors in the United States is ineligible for adjustment from temporary to permanent resident status. 8 C.F.R. § 245a.3(c).

In the decision dated February 14, 2008, the director explained that court records indicated that the applicant was convicted of the following three misdemeanors:

1. Convicted on December 4, 1996 of *driving a vehicle with .08 percent or more blood alcohol* in violation of section 23152(b) of the California Vehicle Code (Municipal Court of Alhambra Courthouse Judicial District, County of Los Angeles, Docket No. 6AL03459), a misdemeanor;
2. Convicted on December 4, 1996 of *hit and run with property damage* in violation of section 20002(a) of the California Vehicle Code (Municipal Court of Alhambra Courthouse Judicial District, County of Los Angeles, Docket No. 6AL03459), a misdemeanor; and
3. Convicted on December 6, 1996 of *driving with a suspended license* in violation of section 14601.2(a) of the California Vehicle Code (Municipal Court of Monrovia Courthouse Judicial District, County of Los Angeles, Docket No. 6SA03669), a misdemeanor.

The issue in this proceeding is whether the applicant has established his eligibility to adjust from temporary to permanent resident status pursuant to Section 245A of the Act. Specifically, it must be determined whether the applicant has established that he is not ineligible for permanent resident status due to having been convicted of three misdemeanors. The record indicates that the applicant was convicted of three misdemeanors, as listed above. The applicant has failed to provide any

evidence indicating that he, in fact, has not been convicted of three misdemeanors. Therefore, the applicant is found not to have established that he is not ineligible for permanent resident status based on three misdemeanor convictions.

As stated above, an applicant who has been convicted of three or more misdemeanors in the United States is ineligible for adjustment from temporary to permanent resident status. 8 C.F.R. § 245a.3(c). The applicant has failed to submit evidence that overcomes the director's finding that he has been convicted of three misdemeanors. The applicant is, therefore, ineligible for adjustment from temporary to permanent resident status under section 245A of the Act on this basis.

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