



U.S. Citizenship
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Services

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FILE:

MSC 06 090 11963

Office: NEW YORK

Date:

JUN 10 2008

IN RE:

Applicant:



APPLICATION:

Application for Status as a Temporary Resident pursuant to Section 245A of
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. If your appeal was dismissed or rejected, all documents have been returned to the National Records 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status pursuant to the terms of the settlement agreements reached in *Catholic Social Services, Inc., et al., v. Ridge, et al.*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. 87-4757-WDK (C.D. Cal) February 17, 2004 (CSS/Newman Settlement Agreements), was denied by the District Director, New York. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act), and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet. The director determined that the applicant failed to meet his burden of proving by a preponderance of the evidence that he 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 under this section. The director referred to the Notice of Intent to Deny (NOID), which indicated that the applicant failed to establish by a preponderance of the evidence that he had resided in the United States throughout the requisite period. The director also raised the issue of class membership. Since the application was considered on the merits, the director is found not to have denied the applicant's claim of class membership.

On appeal, counsel for the applicant attempted to address the concerns relating to class membership that were raised by the director. Counsel also stated that the applicant meets the eligibility requirements for temporary resident status. An affidavit signed by the applicant was also submitted. The affidavit states that the applicant continuously resided the United States since his entry in October 1978. The applicant also attached copies of documents in support of his claim of residence in the United States during the requisite period.

An applicant for temporary resident status must establish entry into the United States before January 1, 1982, and continuous residence in the United States in an unlawful status since such date and through the date the application is filed. Section 245A(a)(2) of the Act, 8 U.S.C. § 1255a(a)(2). The applicant must also establish that he or she has been continuously physically present in the United States since November 6, 1986. Section 245A(a)(3) of the Act, 8 U.S.C. § 1255a(a)(3). The regulations clarify that the applicant must have been physically present in the United States from November 6, 1986 until the date of filing the application. 8 C.F.R. § 245a.2(b).

For purposes of establishing residence and physical presence under the CSS/Newman Settlement Agreements, the term "until the date of filing" in 8 C.F.R. § 245a.2(b) means until the date the applicant attempted to file a completed Form I-687 application and fee or was caused not to timely file during the original legalization application period of May 5, 1987 to May 4, 1988. CSS Settlement Agreement paragraph 11 at page 6; Newman Settlement Agreement paragraph 11 at page 10.

The applicant has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite period, is admissible to the United States under the

provisions of section 245A of the Act, and is otherwise eligible for adjustment of status. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.2(d)(5).

Although the regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status since prior to January 1, 1982, the submission of any other relevant document is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The “preponderance of the evidence” standard requires that the evidence demonstrate that the applicant's claim is “probably true,” where the determination of “truth” is made based on the factual circumstances of each individual case. *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989). In evaluating the evidence, *Matter of E-M-* also stated that “[t]ruth is to be determined not by the quantity of evidence alone but by its quality.” *Id.* at 80. Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.

Even if the director has some doubt as to the truth, if the petitioner submits relevant, probative, and credible evidence that leads the director to believe that the claim is “probably true” or “more likely than not,” the applicant or petitioner has satisfied the standard of proof. *See U.S. v. Cardozo-Fonseca*, 480 U.S. 421, 431 (1987) (defining “more likely than not” as a greater than 50 percent probability of something occurring). If the director can articulate a material doubt, it is appropriate for the director to either request additional evidence or, if that doubt leads the director to believe that the claim is probably not true, deny the application or petition.

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to meet his burden of establishing continuous unlawful residence in the United States during the requisite period. Here, the applicant has failed to meet this burden.

The record shows that the applicant submitted a Form I-687 application and Supplement to Citizenship and Immigration Services (CIS) on December 29, 2005. At part #30 of the Form I-687 application where applicants were asked to list all residences in the United States since first entry, the applicant listed the following addresses during the requisite period: [REDACTED] Boston, Massachusetts from “12/1979 to 1979 [sic]”; [REDACTED], Long Beach, California from February 1980 to 1981; and [REDACTED], Brooklyn, New York from October 1983 to present. At part #33 where applicants were asked to list all employment in the United States since entry, the applicant stated “none.” The applicant failed to indicate that he resided in the United States throughout 1982 and between January and September 1983. According to 8 C.F.R. § 245a.2(h)(1)(i), an applicant for temporary resident status shall be regarded as having resided continuously in the United States if, at the time of filing of the application, no single absence from the United States has exceeded 45 days, and the aggregate of all absences has

not exceeded 180 days between January 1, 1982 through the date the application for temporary resident status is filed, unless the applicant can establish that due to emergent reasons, his or her return to the United States could not be accomplished within the time period allowed. Since the applicant's Form I-687 indicates that he did not reside in the United States during 1982 and between January and September 1983, his absences from the United States must have exceeded 180 days. The applicant provided no explanation for the delay in his returning to the United States. As a result, the applicant is found not to have resided continuously in the United States throughout the requisite period.

In an attempt to establish continuous unlawful residence in this country since prior to January 1, 1982, the applicant provided multiple documents that relate to the requisite period. The record includes photocopies from a passport issued to the applicant on August 8, 1978. The photocopies include a copy of page 7 of the passport, which contains a United States entry stamp listing an entry date of October 7, 1978. This evidence tends to show that the applicant entered the United States on October 7, 1978.

The applicant provided a photocopy of a document listing the applicant's name and stating that his Social Security Number is [REDACTED]. This document is undated. Therefore, the document has little weight in the determination of whether the applicant resided in the United States during the requisite period.

The applicant provided copies of telephone bills from New York Telephone dated February 10, 1987; March 31, 1987; and May 10, 1987 and addressed to the [REDACTED] address. These documents constitute some evidence that the applicant resided in the United States during February, March, and May 1987.

The applicant submitted a copy of electric bills for the [REDACTED] address for the periods prior to March 31, 1987; May 27, 1987; and February 26, 1987. The bills do not list the applicant's name. Therefore, these documents do not constitute evidence that the applicant resided in the United States during the requisite period.

The applicant provided a copy of an electric bill for the period prior to March 31, 1987. This bill lists the applicant's name, as well as the [REDACTED] address. This constitutes some evidence that the applicant resided in the United States during March 1987.

The applicant provided copies of gas bills for the period of March 18, 1987 to May 18, 1987; and September 17, 1984 to November 14, 1984. The bills list the applicant's name, as well as the [REDACTED] address. These documents constitute some evidence that the applicant resided in the United States between March 1987 and May 1987 and between September 1984 and November 1984.

The applicant provided a copy of a gas bill that is undated but indicates that the bill was paid on December 3, 1986. This bill lists the applicant's name, as well as the [REDACTED] address.

This constitutes some evidence that the applicant resided in the United States during December 1986.

The applicant provided two receipts for the purchase of money orders. Both receipts list the applicant's name, as well as the [REDACTED] address. The first receipt contains a date that is illegible. Therefore, this document does not constitute evidence of the applicant's residence in the United States during the requisite period. The second receipt contains a printed date that is illegible, as well as a handwritten date of July 21, 1986. The document also contains a legible, printed serial number, as well as a different handwritten serial number that is written next to the handwritten date. The additional handwritten serial number and date cast some doubt on the authenticity of this document. Therefore, the document constitutes only limited evidence that the applicant resided in the United States in July 1986.

The applicant provided a Certificate of Title issued on March 8, 1984, listing the applicant's name, and listing the [REDACTED] address. This document tends to show that the applicant resided in the United States during March 1984.

The applicant submitted a copy of an apartment registration for the [REDACTED] address listing the applicant's name. The registration indicates that it was prepared on June 18, 1984, and that the lease expires on September 30, 1985. The applicant also provided a certified copy of a record from the New York State Division of Housing and Community Renewal, which indicates that the applicant held a lease for the [REDACTED] address from April 1, 1984 to September 30, 1985. These documents tend to show that the applicant resided in the United States from April 1984 to September 1985.

The applicant provided a copy of a Form W-2 Wage and Tax Statement for 1985, which lists the applicant's name but fails to list his address. The Form W-2 lists Industrial Heat-Tech, Inc. as the applicant's employer. The applicant failed to list this employer on his Form I-687 application. This inconsistency casts some doubt on the authenticity of this document. Since the Form W-2 does not list the applicant's address, it constitutes only limited evidence that the applicant worked in the United States for some portion of 1985.

The applicant provided a copy of a Temporary New York State Insurance Identification Card. This document lists the applicant's name, together with the [REDACTED] address. The document is dated February 11, 1987. This constitutes some evidence that the applicant resided in the United States during February 1987.

The applicant provided a notarized declaration dated April 22, 1987 from [REDACTED], president of [REDACTED]. The declaration states that the applicant worked for [REDACTED] on several occasions as an independent contractor in the plumbing department. The declarant failed to indicate the dates during which the applicant worked as an independent contractor. As a result, this declaration fails to state that the applicant resided in the United States during the requisite period. In addition, the applicant failed to list his employment with [REDACTED] on his Form I-687 when asked to list all employment in the United States since entry. This inconsistency

casts doubt on the declarant's ability to confirm that the applicant resided in the United States during the requisite period.

The applicant provided a copy of a New York State driver's license issued to him on October 21, 1986. The driver's license lists the [REDACTED] address. This document constitutes some evidence that the applicant resided in the United States in October 1986.

The applicant provided a copy of a New York State Registration receipt dated December 31, 1986. This document also lists the applicant's name and the [REDACTED] address. This constitutes some evidence that the applicant resided in the United States during December 1986.

The applicant provided a copy of a savings account book listing his name, for Independence Savings Bank. According to other documents in the record, the bank is located in Brooklyn, New York. The savings account book lists transactions during March, April, May, June, July, September, October, November, and December of 1985; January, February, March, April, May, June, September, and December of 1986; and February 1987. This document tends to show that the applicant resided in the United States during the above listed months.

The applicant provided a copy of a lease document listing the applicant as tenant of the [REDACTED] address from October 1, 1983 to September 30, 1985. This document tends to show that the applicant resided in the United States between October 1983 and September 1985.

The applicant provided a copy of a lease document listing the applicant as tenant of the [REDACTED] address from October 1, 1985 to September 30, 1987. The lease form provides a place for the signatures of the applicant, the landlord, and a witness. The copy provided by the applicant does not contain the signature of the applicant or a witness. This casts some doubt on the authenticity of the document. Still, this document constitutes some evidence that the applicant resided in the United States between October 1985 and September 1987.

The applicant provided copies of personal checks listing his name, signed by himself, and made out to Jayess Plumbing Supply. The checks are dated January 11, 1985; January 21, 1985; January 23, 1985; February 12, 1985; December 11, 1985; December 12, 1985; an illegible date in 1985; January 8, 1986; January 27, 1986; February 25, 1986; an illegible date in February 1986; March 1, 1986; June 17, 1986; August 18, 1986; September 26, 1986; November 12, 1986; December 9, 1986; and March 12, 1987. The checks do not list the applicant's address. Therefore, these documents constitute only limited evidence of the applicant's residence in the United States during the requisite period.

The applicant submitted a declaration dated April 23, 1987 from [REDACTED], vice president of Gayle Realty Corp. This declaration states that the applicant has been working for the declarant's real estate corporation from November 1984 to the present as an independent plumber. The declarant also states that the applicant resided at the [REDACTED] address. This information is inconsistent with the applicant's Form I-687, where he failed to list employment with Gayle Realty Corp. In addition, the declaration does not conform to regulatory standards for letters from

employers as stated in 8 C.F.R. § 245a.2(d)(3)(i). Specifically, the declaration does not indicate whether or not the information was taken from official company records, where the records are located, and whether CIS may have access to the records. As a result, this document will be given very little weight.

The applicant provided a declaration from [REDACTED], manager of Channel Realty Co., dated June 25th, 1987. This declaration states that the applicant has been doing plumbing repairs for the declarant, on a per job basis, from 1982 to the present time. This declaration is inconsistent with the Form I-687, where the applicant failed to indicate that he was employed during the requisite period. In addition, this declaration fails to specifically state that the applicant resided in the United States during the requisite period. Lastly, this declaration fails to provide detail regarding the declarant's frequency of contact with the applicant, the region where the applicant resided, and any times he was absent from the United States during the requisite period. As a result, this declaration is found to lack sufficient detail to confirm that the applicant resided in the United States during the requisite period.

The applicant submitted an undated declaration from [REDACTED]. The declarant stated that the applicant was in the declarant's employ from "1982 to date." Since the declaration is undated, the applicant's period of employment with the declarant is unclear. The declarant stated that the applicant's employment consisted of plumbing and general maintenance of the declarant's property. This declaration is inconsistent with the Form I-687, where the applicant failed to indicate that he was employed during the requisite period. In addition, this declaration fails to specifically state that the applicant resided in the United States during the requisite period. Lastly, this declaration fails to provide detail regarding the declarant's frequency of contact with the applicant, the region where the applicant resided, and any times he was absent from the United States during the requisite period. As a result, this declaration is found to lack sufficient detail to confirm that the applicant resided in the United States during the requisite period.

The applicant provided an affidavit from [REDACTED] dated June 15, 1987. The affiant stated that, to his personal knowledge, the applicant has resided in the United States at the [REDACTED] address from February 1980 to December 1981. The affiant stated that he was able to determine the date of the beginning of his acquaintance with the applicant because the applicant resided with the affiant during this time while looking for a job in California. This affidavit fails to include details regarding how and when the affiant met the applicant. Still, this declaration constitutes some evidence that the applicant resided in the United States during the requisite period.

The applicant provided a Contingent Fee Agreement dated March 5, 1979 and listing himself as the client who retained [REDACTED] for legal services. The agreement states that the services were related to potential personal injury claims against [REDACTED] arising out of an incident occurring on or about February 18, 1979 at or near Brooklyn, New York. The agreement lists the applicant's address as indicated on his Form I-687 and contains a place for signatures of the client, the attorney, and the witness. The agreement also contains a place for an additional signature of the client to indicate he has received a copy of the agreement. The agreement contains no witness signature and no additional client signature indicating the client received a copy of the agreement. This casts

some doubt on the credibility of the document. Still, the document constitutes some limited evidence that the applicant resided in the United States between February and March 1979.

The applicant provided an affidavit from [REDACTED] indicating that the applicant lived with the affiant at the [REDACTED] address from February 1979 to February 1980. This affidavit is inconsistent with the applicant's Form I-687, where he indicated that he did not begin residing at the [REDACTED] address until December 1979. This inconsistency casts doubt on the affiant's ability to confirm that the applicant resided in the United States during the requisite period.

The applicant provided an affidavit from [REDACTED] indicating that the applicant lived with the affiant at [REDACTED] in Hollis, Queens from October 1978 to February 1979. This information is inconsistent with the applicant's Form I-687, where he indicated he first began residing in the United States in December 1979. This inconsistency casts doubt on the affiant's ability to confirm that the applicant resided in the United States during the requisite period.

The applicant provided an affidavit from [REDACTED] indicating that the applicant lived with the affiant at the [REDACTED] address from January 1982 to October 1983. This affidavit is inconsistent with the applicant's Form I-687, where he indicated that he did not begin residing at the [REDACTED] address until October 1983. This inconsistency casts doubt on the affiant's ability to confirm that the applicant resided in the United States during the requisite period.

The applicant submitted a letter from [REDACTED] customer service representative from conEdison dated March 30, 2006. The letter is addressed to the applicant at the [REDACTED] address. The letter states, in pertinent part, "As you requested, an account has been established for you at the above address. Our records indicate that you began using service [sic] on October 13, 1983." The applicant also provided a statement of account from conEdison listing activity on the applicant's account beginning on February 10, 2004. Although the letter from conEdison indicates that the applicant's account began in 1983, the applicant has failed to submit copies of account statements during the requisite period. In addition, the letter from conEdison does not explain the failure to attach account statements or other documents relating to the requisite period. The letter also does not explain the origins of the information to which the letter attests. This lack of detail and supporting documentation casts some doubt on the credibility of the letter. Therefore, it will be given limited weight as evidence of the applicant's residence in the United States since October 1983.

The applicant submitted a copy of a notification of a claim that the applicant filed with the Division of Labor Standards Enforcement. The notification is dated June 25, 1980. The applicant's address is listed as the [REDACTED] address. The period to which the claim relates is May 15, 1980 through June 2, 1980. This document tends to show that the applicant resided in the United States from May to June 1980.

The applicant provided a copy of a renewal application for an apprentice plumber license for the Commonwealth of Massachusetts, Division of Registration, dated May 1, 1980. The application lists the applicant's name and includes the 28 Draper Street address. This is inconsistent with the

applicant's Form I-687, where he indicated that he lived at the [REDACTED] address only during 1979. This inconsistency casts some doubt on the applicant's claim to have resided in the United States throughout the requisite period.

The applicant also provided a copy of an employment card from the Employment Development Department. This document contains what appears to be a date notation, but the year of the date is not legible. Therefore, this document does not hold any weight in the determination of whether the applicant has established that he resided in the United States during the requisite period.

The record contains a Certificate of Disposition (No. [REDACTED] dated April 1, 1988 from the Criminal Court of the City of New York (Docket No. [REDACTED]) for an offense occurring on March 31, 1982. The record indicates that on April 1, 1982, the applicant entered a plea of guilty to the following two charges under the New York Penal Law:

1. Article 221.40, Criminal Sale of Marijuana in the Fourth Degree, a class A misdemeanor; and
2. Article 221.10, Criminal Possession of Marijuana in the Fifth Degree, a class B misdemeanor.

It is noted that the applicant's name was erroneously listed as [REDACTED] on the Certificate of Disposition. Attached to the Certificate of Disposition and contained in the record is a photocopy of an affidavit from the applicant dated June 12, 1987. The affidavit reads as follows:

To Whom It May Concern

Sometime in early 1982 I the undersigned was repairing a leaking toilet on [REDACTED], [Brooklyn, New York] in a shop.

During the time I was there doing my job the shop was raided by the police. I was arrested with others and charged with marihuana [sic] possession and sale. I was later found guilty of above.

Yours truthfully

I [REDACTED]

These documents tend to show that the applicant was present in the United States on March 31 and April 1, 1982. It is noted that the Certificate of Disposition lists the applicant's address as [REDACTED], Brooklyn, New York. This address is not listed as a past or current address of the applicant on his Form I-687 application. This inconsistency casts additional doubt on the applicant's claim to have resided in the United States throughout the requisite period. In addition, these documents tend to show that the applicant is inadmissible to the United States. According to section 212(a)(2)(A)(i)(II) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(II), with some exceptions, any applicant convicted of a violation of any law of a State relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802) is inadmissible. The related exceptions require that the applicant has only committed one crime. Section 212(a)(2)(A)(ii) of the

Act, 8 U.S.C. § 1182(a)(2)(A)(ii). Since the applicant committed two crimes, criminal possession of marijuana and criminal sale of marijuana, the exceptions do not apply in this instance. The Attorney General may, at his discretion, waive the application of section 212(a)(2)(A)(i)(II) of the Act in his discretion, but only insofar as the application of this subsection relates to a single offense of simple possession of 30 grams or less of marijuana. Since the applicant was convicted of the criminal sale of marijuana, the Attorney General may not waive the application of section 212(a)(2)(A)(i)(II) of the Act in this instance.

The record also includes a Certificate of Disposition from the Criminal Court of the City of New York dated May 13, 1994. This document lists the applicant's name and the 1094 New York address. The document lists the original offenses as violations of New York Penal Law Articles 221.40, 221.10, and 240.20. The document indicates that the applicant pled guilty to violating New York Penal Law Article 240.20, Disorderly Conduct on April 1, 1982. This information is inconsistent with the information provided in the 1988 Certificate of Disposition and the 1987 affidavit from the applicant. It is noted that the applicant also stated in an affidavit dated September 10, 2007 that CIS "erroneously believed that [the applicant] was convicted for the offence [sic] possession of marijuana." Without additional information, the 1994 Certificate of Disposition and the applicant's statement in his 2005 affidavit fail to overcome the other evidence in the record indicating that the applicant was convicted of violating a law relating to a controlled substance.

In denying the application the director noted that the applicant failed to meet his burden of proving by a preponderance of the evidence that he 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 under this section. The director indicated that the applicant failed to establish by a preponderance of the evidence that he had resided in the United States throughout the requisite period.

On appeal, counsel stated that the applicant meets the eligibility requirements for temporary resident status. An affidavit signed by the applicant was also submitted. The affidavit states that the applicant continuously resided the United States since his entry in October 1978. The applicant also attached copies of documents in support of his claim of residence in the United States during the requisite period.

In summary, the applicant has failed to provide sufficient credible, probative evidence of his residence in the United States for substantial portions of the requisite period. Specifically, the applicant lacks sufficient evidence of his residence in the United States from April 1982 to September 1983. The evidence provided by the applicant in support of his claim to have resided in the United States between April 1982 and September 1983 is inconsistent with his Form I-687 application, lacks sufficient detail, or fails to state that the applicant resided in the United States during the requisite period. The applicant also failed to indicate on the Form I-687 application that he resided in the United States from January 1982 to September 1983.

The absence of sufficiently detailed supporting documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously detracts from the credibility of this claim. Pursuant to 8 C.F.R. § 245a.2(d)(5), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. Given the contradictions between the applicant's statements on his Form I-687 application and the documents he presented, and given his reliance upon documents with minimal probative value for a substantial portion of the requisite period, it is concluded that he has failed to establish continuous residence in an unlawful status in the United States for the requisite period under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E- M--*, *supra*. The applicant is, therefore, ineligible for temporary resident status under section 245A of the Act on this basis.

Beyond the decision of the director and as noted above, the applicant was convicted of a violation of a New York State law relating to a controlled substance. According to section 212(a)(2)(A)(i)(II) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(II), with some exceptions, any applicant convicted of a violation of any law of a State relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) is inadmissible. As explained above, the applicant is not eligible for an exception to or waiver of this ground of inadmissibility. An application that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989) (noting that the AAO reviews appeals on a de novo basis). Therefore, the AAO also finds the applicant ineligible for temporary resident status on the basis of his conviction of the violation of a law of a State relating to a controlled substance.

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