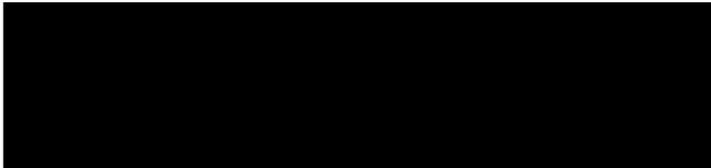




U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
WAC 04 150 50200

Office: LOS ANGELES

Date: MAR 29 2007

IN RE: Applicant: [REDACTED]

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. 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 application for adjustment of status from temporary to permanent resident was denied by the District Director, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The district director denied the application because the applicant failed to provide the final court dispositions of all arrests since her arrival in the United States.

An applicant for adjustment of status from temporary to permanent resident must establish entry continuous residence in the United States since he or she was granted temporary resident status, is admissible to the United States under the provision of section 245A of the Act, 8 U.S.C. § 1255a, and is otherwise eligible for adjustment of status. 8 C.F.R. § 245a.3(b).

An alien is ineligible for adjustment of status from temporary to permanent resident if he or she has been convicted of a felony, or three or more misdemeanors committed in the United States. *See* 8 C.F.R. § 245a.3(g)(3)(i). Also, an alien is inadmissible to the United States if he or she as been convicted of a crime involving moral turpitude (other than a purely political offense), or if he or she admits having committed such crime, or if he or she admits committing an act which constitutes the essential elements of such crime. *See* Section 212(a)(2)(A)(i)(I) of the Act, formerly section 212(a)(9) of the Act.

"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).

Declarations by an applicant that he or she 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. 8 C.F.R. § 245a.3(g)(5).

The applicant's 2005 Federal Bureau of Investigation (FBI) fingerprint results revealed that the applicant was arrested in Los Angeles, California, on August 21, 2003, and charged with one count of battery on a person.

On July 11, 2006, the applicant appeared for her adjustment interview. At the conclusion of her interview, the interviewing officer issued the applicant a Form I-72 granting her 30 days to provide the final court disposition of her arrest. The applicant, in response, submitted a document dated July

25, 2006 from the Superior Court of California, County of Los Angeles, indicating that a criminal record search was conducted using the name [REDACTED] and no criminal record was found.

The director denied the application on August 7, 2006, because the applicant failed to provide the final court disposition of her arrest.

On appeal, the applicant concedes that the court criminal record search document submitted in response to the request for additional evidence was insufficient and submits another criminal record search document from the Superior Court of California, County of Los Angeles, dated August 15, 2006, indicating that no criminal record was found for [REDACTED], date of birth August 3, 1960.

This document is not sufficient to establish the applicant's eligibility for adjustment of status from temporary to permanent resident. The applicant's criminal record was discovered through an FBI fingerprint search. FBI records are regulated by law and furnished for official use only. It is the position of CIS that an FBI fingerprint search provides a more thorough account of an applicant's criminal background than local record searches conducted by name.

The applicant has failed, both in response to the request for additional evidence and again on appeal, to provide the final court dispositions of the arrest detailed above. The applicant has failed to provide documentation necessary for the adjudication of the application, thereby preventing Citizenship and Immigration Services from determining her admissibility to the United States. 8 C.F.R. § 245a.3(g)(5). Therefore, the appeal must be dismissed.

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