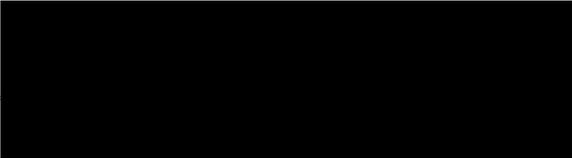




U.S. Citizenship  
and Immigration  
Services



FILE:



Office: CALIFORNIA SERVICE CENTER

DEC 22 2004  
Date:

IN RE:

Applicant:



APPLICATION:

Application for Status as a Temporary Resident pursuant to Section 210 of the  
Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT:

Self-represented

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

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, Director  
Administrative Appeals Office

PUBLIC COPY

**DISCUSSION:** The application for temporary resident status was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant had been convicted on a violation of a law relating to a controlled substance.

On appeal, the applicant acknowledges the conviction, and requests that humanitarian factors be considered in the adjudication of her appeal.

An alien is inadmissible if he or she 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 or she 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.

The applicant was convicted on April 28, 1978 of the felony offense of Distribution of Controlled Substance – Cocaine. She is therefore inadmissible under section 212(a)(2)(A)(i)(II) of the Act. There is no waiver available to an alien inadmissible under that section except for a single offense of simple possession of thirty grams or less of marijuana. *See* section 210(c)(2)(B)(ii) of the Act.

An alien who has been convicted of a felony or three or more misdemeanors in the United States is ineligible for temporary resident status. 8 C.F.R. § 210.3(d)(3). The applicant is also ineligible on this basis, and no waiver is available.

An alien applying for adjustment of status has the burden of proving by a preponderance of the evidence that he or she is admissible to the United States under the provisions of section 210(c) of the Act, 8 U.S.C. 1160, and is otherwise eligible for adjustment of status under this section. 8 C.F.R. § 210.3(b)(1). The applicant has not met this burden.

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