**U.S. Department of Homeland Security**
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

**U.S. Citizenship and Immigration Services**

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: AUG 25 2004

IN RE: Applicant: [redacted]

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:

[redacted]

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

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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**DISCUSSION:** The termination of temporary resident status by the Director, Western Service Center is before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director terminated the applicant's status because of the applicant's numerous misdemeanor convictions, and because he failed to submit certain records.

On appeal, the applicant initially stated that he could not specify the reasons for his appeal until he received a copy of the record. The director complied with the request for a copy of the record. The applicant now provides a statement in which he explains that he was unable to acquire any more conviction records. He asks that his ineligibility be waived.

The status of an alien lawfully admitted for temporary residence under section 245A of the Act may be terminated if he or she is convicted of any felony or three or more misdemeanors in the United States. 8 C.F.R. § 245a.2(u)(1)(iii).

The director pointed out in his decision that the applicant was convicted of Unlicensed Driver, Driving With a Blood Alcohol Content of .10% or More, and Unlawfully Driving a Vehicle While Under the Influence of Intoxicating Liquor on November 28, 1989. He also noted the applicant was convicted of Reckless Driving on May 15, 1990. These four misdemeanor convictions render the applicant ineligible for temporary residence.

The applicant has not contested the director's findings. He asks that his ineligibility, due to criminality, be waived. However, within the legalization program, no waiver is available to an alien convicted of a felony or three or more misdemeanors committed in the United States.

An alien applying for adjustment of status has the burden of proving by a preponderance of the evidence that he or she 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. 8 C.F.R. § 245a.2(d)(5). The applicant has failed to meet this burden

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