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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: California Service Center Date: JUN 12 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: 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, Director
Administrative Appeals Office

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

The director terminated the applicant's status because of his criminal record.

The applicant's original appeal was misplaced. He provides a duplicate appeal form on which he indicates he has not received residence status. He does not address the specific grounds of termination.

Temporary resident status may be terminated if the alien is convicted of a felony, or three or more misdemeanors. *See* 8 C.F.R. § 245a.2(u)(1)(iii).

"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).

The record reveals the applicant pled guilty to Grand Theft: Property on January 12, 1988. He was also arrested for Failure to Appear on September 22, 1985 and March 29, 1987. These misdemeanor offenses occurred in California.

In the Notice of Intent to Terminate, the applicant was directed to provide the dispositions of the 1985 and 1987 arrests. He failed to do so, and has not provided them on appeal.

Declarations by an applicant that he 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 negative determination. *See* 8 C.F.R. § 245a.2(k)(5).

It is concluded that the applicant has failed to provide documents necessary for the adjudication of the application. Therefore, the appeal must be dismissed on this basis. In addition, the applicant stated that he had not been arrested on his applications for temporary residence and permanent residence. He is inadmissible under section 212(a)(6)(C)(i) of the Act for having attempted to acquire a benefit through misrepresentation.

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