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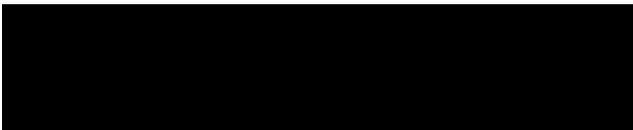
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, D.C. 20529



U.S. Citizenship  
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Services

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FILE:  Office: CALIFORNIA SERVICE CENTER Date: DEC 22 2006  
XBA 88 132 03014

IN RE: Applicant: 

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. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

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

The director denied the application because the applicant failed to submit the requested court dispositions.

On appeal, the applicant submits the requested court dispositions and a Form H-6 from the California Department of Motor Vehicles (DMV).

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. § 245a.2(c)(1).

"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 FBI record dated June 18, 1988 revealed the following:

1. On October 2, 1986, the applicant was arrested by the California Highway Patrol in Bakersfield for taking a vehicle without consent. On January 28, 1987, the applicant was arrested under warrant number [REDACTED] by the Sheriff's Office in Bakersfield for the unlawful taking of a vehicle charge.

The Form K-4 from the California DMV dated February 22, 1988, listed the following offenses:

2. On October 13, 1985, the applicant was arrested for driving under the influence, a violation of section 23152(a) VC, and driving without a license, a violation of section 12500(a) VC. On October 25, 1985, the applicant was convicted of both offenses. Case no. [REDACTED]
3. On May 19, 1986, the applicant was arrested for driving without a license, a violation of section 12500(a) VC, a misdemeanor. On February 6, 1987, the applicant was convicted of this offense. Case no. [REDACTED]

On May 16, 1990, the director issued a Notice of Intent to Deny, requesting the applicant to submit the court dispositions for numbers two and three above. The applicant was granted 30 days in which to respond. The applicant, however, failed to respond to the notice, and accordingly, on January 9, 1992, the director denied the application. On appeal, the applicant submits the court dispositions for numbers one through three above as well as three additional court dispositions which revealed the following:

4. Regarding number one, on October 7, 1986, the applicant was charged with a misdemeanor offense of taking a vehicle without owner's consent, a violation of section 10851 VC/17(b)(4) PC; driving without a license, a violation of section 12500(a) VC; and driving while license is suspended or revoked for other reasons, a violation of section 14601.1(a) VC and entrance onto highway, a violation of section 21804 VC. On April 23, 1987, the applicant was convicted of violating section 21804 VC, an infraction. Sections 10851 VC, 12500(a) VC and 14601.1(a) VC were dismissed. The applicant was ordered to pay a fine. Case no. [REDACTED]

5. On December 16, 1989, the applicant was arrested by the Bakersfield Police Department for driving under the influence, a violation of section 23152(a) VC; driving with .10 percent or more alcohol in the blood, a violation of section 23152(b) VC; and driving while license is suspended or revoked for other reasons, a violation of section 14601.1(a) VC, all misdemeanors. On January 26, 1990, the applicant was convicted of violating sections 23152(a) VC and 14601.1(a) VC. The applicant was sentenced to serve 25 days in jail and placed on probation for three years. For section 23152(a) VC, the applicant was also sentenced to serve 13 days in jail in lieu of fine, and for section 14601.1(a) VC, the applicant was also sentenced to serve 5 days in jail in lieu of fine. Case no. [REDACTED]
6. On February 15, 1990, the applicant was charged with driving while license is suspended or revoked for other reasons, a violation of section 14601.1(a) VC, a misdemeanor. On March 29, 1990, the applicant was convicted of this offense. The applicant was placed on probation for three years and ordered to pay a fine. Case no. [REDACTED]
7. On December 22, 1989, the applicant was arrested by the Bakersfield Police Department for driving under the influence, a violation of section 23152(a) VC; driving with .10 percent or more alcohol in the blood, a violation of section 23152(b) VC; and driving while license is suspended or revoked for other reasons, a violation of section 14601.1(a) VC, all misdemeanors. On January 26, 1990, the applicant was convicted of violating sections 23152(a) VC and 14601.1(a) VC. The applicant was sentenced to serve 25 days in jail and his driving privileges were revoked for 18 months. For section 23152(a) VC, the applicant was also sentenced to serve 13 days in jail in lieu of fine and for section 14601.1(a) VC, the applicant was also sentenced to serve 5 days in jail in lieu of fine. Case no. [REDACTED]

On appeal, the applicant also submits a Form H-6 dated March 4, 1992 which reflects the convictions in numbers two, five, six and seven above.

The record also contains a court disposition regarding the applicant's arrest on or about December 27, 1992 in Calexico, California for violating 18 U.S.C. § 911, false claim to U.S. citizenship, a felony, and 8 U.S.C. § 1325, illegal entry, a misdemeanor. On December 28, 1992, the applicant was convicted of illegal entry. The applicant was sentenced to serve 45 days in the Bureau of Prisons. The felony charge was dismissed. Case no. [REDACTED]

On appeal, the applicant asserts that his records have been cleared and "I hope this court [sic] records and driving records are satisfactory evidence that I am in good standing..." The applicant's assertion that his record has been cleared is unfounded as the court dispositions clearly indicate that he had been convicted of the offenses mentioned above. It is noted that neither the acknowledgement of past mistakes nor the applicant's satisfactory completion of all of his court obligations eliminates his convictions.

The applicant is ineligible for temporary resident status because of his nine misdemeanor convictions. 8 C.F.R. § 245a.2(c)(1). Within the legalization program, there is no waiver available to an alien convicted of a felony or three 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 Immigration and Nationality 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.