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U.S. Citizenship  
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FILE: [REDACTED]  
XCO 89 166 1048

Office: TEXAS SERVICE CENTER

Date: FEB 22 2007

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, terminated the applicant's temporary resident status, and the case is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director terminated the applicant's status because the applicant had been convicted of three or more misdemeanors.

On appeal, the applicant submitted court documents relating to subsequent arrests and convictions.

The temporary resident status of an alien who has been convicted of a felony or three or more misdemeanors in the United States may be terminated at any time. 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 following offenses:

1. The applicant was convicted in the County Court No. 4, Nueces County, Texas, of unlawfully carrying a concealed weapon on April 20, 1990. (Date of Arrest: April 15, 1990; Case No. [REDACTED])
2. The applicant was convicted of driving while intoxicated and driving while his driving privilege was suspended in the County Court No. 1, Nueces County, Texas, on October 25, 1990. (Date of Arrest: October 14, 1990; Case Nos. [REDACTED] and No. [REDACTED])

The record confirms that the applicant became ineligible for temporary resident status after he had been granted that status because of his record of three or more misdemeanor convictions. 8 C.F.R. § 245a.2(c)(1). There is no waiver of this ground of inadmissibility. 8 C.F.R. § 245a.2(k)(3)(i). Therefore, the director's decision to terminate the applicant's temporary resident status will be affirmed and the appeal will be dismissed.

Beyond the decision of the director, it is noted that the applicant, on appeal, has provided court documents reflecting the following additional misdemeanor convictions:

3. On September 6, 1991, the applicant was convicted in the County Court No. 2, Nueces County, Texas, of driving while his driving privilege was suspended. (Date of Arrest: August 15, 1991; Case No. [REDACTED])
4. On April 5, 1993, the applicant was convicted in County Court No. 4, Nueces County, Texas, of driving while his driving privilege was suspended. (Date of Arrest: January 22, 1992; Case No. [REDACTED])
5. On July 19, 2002, the applicant was convicted in County Court No. 4, Nueces County, Texas, of driving while intoxicated. (Date of Arrest: June 30, 2002; Case No. [REDACTED])

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