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U.S. Citizenship
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Services

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FEB 05 2007

FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER
XSA 88 048 7089

Date:

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:

Attached is a notice informing you of the reopening of your case and the withdrawal of the previous dismissal of your appeal in the above proceeding. You are allowed thirty (30) days from the date of this notice to respond and submit additional material in support of your original appeal to the above address.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status was denied by the Director, Western Service Center, and the matter came before the Administrative Appeals Office (AAO) on appeal. While a review of the record demonstrates that the AAO dismissed the appeal on August 1, 2006, the decision that was attached did not relate to the applicant, but rather to another individual who possessed a different Administrative-file number or A-file number. This case was reopened pursuant to the regulations at 8 C.F.R. 103.5(b) which provide that the AAO may of its own volition (sua sponte) reopen or reconsider a decision under section 245A of the Immigration and Nationality Act (Act), and the previous dismissal withdrawn. The matter is before the AAO again on appeal and the appeal shall be dismissed.

The director denied the application after determining that the applicant was ineligible to adjust to temporary resident status pursuant to 8 C.F.R. § 245a.2(c)(1) because he had been convicted of six misdemeanors in the United States. *See* section 245A(a)(4)(B) of the Immigration and Nationality Act (Act).

On appeal, the applicant stated that he cannot state the specific reasons at this time and requested a copy of the record of proceedings. The applicant indicated that a brief containing a full statement for the reasons for the appeal would be forthcoming within thirty days of compliance with his request.

The record shows that the Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS) complied with the applicant's request and mailed a copy of the record to the applicant on March 9, 1993. However, the applicant failed to submit a statement, brief, or evidence addressing the basis of the director's denial and the AAO dismissed the appeal as frivolous on August 1, 2006.

As noted above, the AAO subsequently reopened the matter for the reasons stated above on November 2, 2006 and issued a notice to the applicant granting him thirty days to supplement his original appeal. The applicant responded by submitting request for an extension in order to obtain records relating to his misdemeanor convictions from the California Department of Justice. The record shows that the applicant was granted an additional thirty day period to supplement the appeal however, as of the date of this decision he has failed to submit a statement, brief, or evidence addressing the basis of the denial.

An applicant for temporary resident status under section 245A of the Act has the burden to establish 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, and is otherwise eligible for adjustment of status under this section. 8 C.F.R. § 245a.2(d)(5).

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. The applicant has failed to address the reasons stated for denial and has not provided any additional evidence on appeal. The appeal must therefore be summarily dismissed.

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