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U.S. Citizenship
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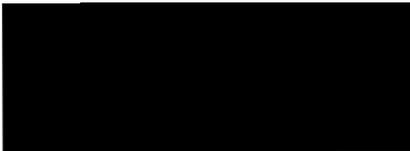


FILE: XSR 88 101 2185 Office: CALIFORNIA SERVICE CENTER Date: **JAN 22 2007**

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:



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 application for temporary resident status was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The applicant filed his Form I-687, Application for Temporary Resident Status, on February 22, 1988. The record revealed the following criminal convictions:

1. On May 24, 1983, the applicant was convicted of driving without a valid driver's license in violation of section 12500(a) of the California Vehicle Code, a misdemeanor. (Date of Arrest: April 30, 1983; Case number [REDACTED])
2. On January 8, 1985, the applicant was convicted of driving without a valid driver's license in violation of section 12500(a) of the California Vehicle Code, a misdemeanor. (Date of Arrest: December 26, 1984; Case Number [REDACTED])
3. On September 19, 1985, the applicant pled *nolo contendere* (no contest) in the Ventura County Municipal Court, State of California, to one count of vandalism causing less than \$1000 in damage in violation of section 594(a) of the California Penal Code, a misdemeanor. (Date of Arrest: August 29, 1985; Case No. [REDACTED])
4. On January 16, 1987, the applicant was convicted of driving under the influence of alcohol in violation of section 23152(a) of the California Vehicle Code, a misdemeanor. (Date of Arrest: December 25, 1986; Case No. [REDACTED])
5. On March 18, 1987, the applicant was convicted of three counts of failure to appear in violation of section 40608 of the California Vehicle Code, all three misdemeanors. (Dates of Violation: August 10, 1986, October 2, 1986, and December 12, 1986; Case Nos. [REDACTED] and [REDACTED]).
6. On April 30, 1987, the applicant was convicted of driving on a suspended or revoked license in violation of section 14601.2 of the California Vehicle Code, a misdemeanor. (Date of Offense: March 5, 1987; Case Number [REDACTED]).
7. On May 12, 1987, the applicant was convicted of failure to appear in violation of section 40508(a) of the California Vehicle Code, a misdemeanor. (Date of Offense: December 8, 1986; Case No. [REDACTED]).
8. On April 25, 1988, the applicant was convicted of one count driving under the influence of alcohol with a blood alcohol content of 0.08% or greater in violation of section 23152(b) of the California Vehicle Code, a misdemeanor. (Date of Offense: March 26, 1988; Case number [REDACTED])

9. On May 18, 1987, the applicant was convicted of failure to appear in violation of section 40508(a) of the California Vehicle Code, a misdemeanor. (Date of Offense: January 10, 1987; Case Number [REDACTED]).

The director denied the application because the applicant had been convicted of 11 misdemeanor offenses.

An adverse decision on an application for temporary resident status may be appealed to the Administrative Appeals Office. Any appeal with the required fee shall be filed with the Service Center within thirty (30) days after service of the notice of denial. The 30-day period for submitting an appeal begins 3 days after the Notice of Decision is mailed. 8 C.F.R. § 245a.20(b)(1). An appeal received after the thirty-day period has tolled will not be accepted. *See* 8 C.F.R. § 245a.2(p).

The director issued the notice of denial on August 12, 1993, and mailed it to the applicant's address of record, but the notice was returned to the Western Service Center as undeliverable mail. The applicant did not file his appeal with the Western Service Center until June 14, 1996. Therefore, the appeal was untimely filed, and must be rejected.

It is noted that the record contains documentation revealing the following offenses not detailed in the notice of denial:

10. On December 7, 1990, the applicant was convicted in the Superior Court of California, County of Ventura, of driving under the influence of alcohol with a blood alcohol content of 0.08% or greater in violation of section 23152(b) of the California Vehicle Code, a misdemeanor. (Date of Arrest: October 27, 1990; Case Number [REDACTED]).
11. On October 4, 1994, the applicant pled guilty in the Superior Court of California, County of Ventura, to one count of driving under the influence of alcohol with a blood alcohol content of 0.08% or greater in violation of section 23152(b) of the California Vehicle Code with prior DUI convictions, a felony, and one count of driving when his driving privilege had been suspended due to a prior conviction on the charge of driving under the influence of alcohol in violation of section 14601.2(a) of the California Vehicle Code, a misdemeanor. (Date of Arrest: October 9, 1991; Case No. [REDACTED]).
12. On July 29, 1994, the applicant was convicted in the Superior Court of California, County of Ventura, of one count of driving under the influence of alcohol with a blood alcohol content of 0.08% or greater in violation of section 23152(b) of the California Vehicle code, a misdemeanor. (Date of Arrest: July 2, 1994; Case Number [REDACTED]).
13. On June 30, 1999, the applicant was convicted in the Superior Court of California, County of Ventura, of one count of driving without a valid driver's license in violation of

section 12500(a) of the California Vehicle code, a misdemeanor. (Date of Arrest: May 16, 1999; Case No. [REDACTED].)

14. On February 17, 2000, the applicant was convicted in the Superior Court of California, County of Ventura, of one count of driving without a valid driver's license in violation of section 12500(a) of the California Vehicle Code, a misdemeanor. (Date of Arrest: December 16, 1999; Case Number [REDACTED].)
15. On March 23, 2006, the applicant pled guilty in the Superior Court of California, County of Ventura, to one count of driving when his driving privilege had been suspended or revoked in violation of section 14601.1(a) of the California Vehicle Code, a misdemeanor. (Date of Arrest: February 24, 2006; Case No. [REDACTED].)

Even if the applicant had filed a timely appeal, he would remain statutorily ineligible for temporary resident status due to his record of at least 17 misdemeanor convictions and one felony conviction.

ORDER: The appeal is rejected.