

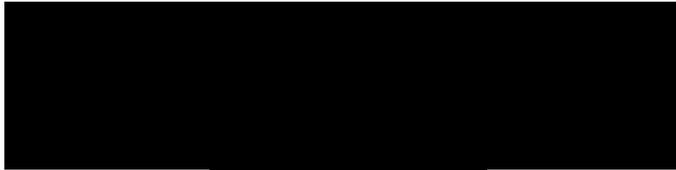
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
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U.S. Citizenship
and Immigration
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FILE:

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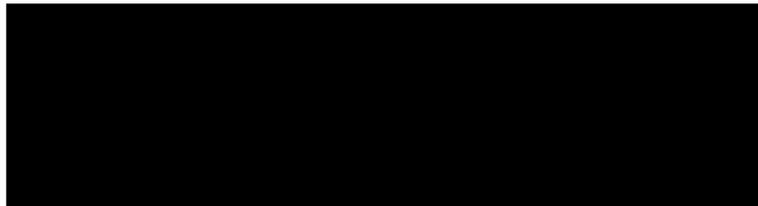
Office: TEXAS SERVICE CENTER

Date:

JUN 07 2007

IN RE:

Applicant:



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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center initially denied the application for temporary resident status in a decision dated May 4, 1993. A timely appeal was filed with the Administrative Appeals Office (AAO). Pursuant to a service motion dated August 16, 2005, the matter was reopened. A new denial was subsequently issued. The appeal will be dismissed.

The director denied the application based on the determination that the applicant failed to provide final court dispositions for offenses listed in the notice of intent to deny (NOID) dated November 21, 2005.

On appeal, the applicant provided police records from various police departments and stated that she never sold drugs nor spent time in jail. She claimed that her husband's drug offenses were the reasons for her own arrests.

"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).

An alien is excludable if he has been convicted of, or admits having committed, or admits committing acts which constitute the essential elements of a violation of (or a conspiracy to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 USC § 802). Section 212(a)(2)(A)(i)(II) of the Act, formerly section 212(a)(23) of the Act. An alien is also excludable if a consular officer or immigration officer knows or has reason to believe he is or has been an illicit trafficker in any such controlled substance. Section 212(a)(2)(C) of the Act, formerly section 212(a)(23) of the Act.

According to an FBI report based upon the applicant's fingerprints, the applicant was arrested for the following offenses:

1. The Sheriff's office of Stockton, California arrested the applicant on January 12, 1978 under the name [REDACTED] for fraud to obtain aid. The disposition for this offense is unknown.
2. The Sheriff's office of Stockton, California arrested the applicant on September 9, 1983 under the name [REDACTED] for possession of a controlled substance for sale. The disposition for this offense is unknown.

3. The Sheriff's office of Lovington, New Mexico arrested the applicant on March 12, 1987 under the name [REDACTED] for possession of a controlled substance with intent to distribute. The disposition for this offense is unknown.

The applicant was informed of all three offenses in the service motion and in the NOIDs and notices of denial issued prior and subsequent to the service motion. It is noted that the applicant has not supplemented the record with any further evidence or documentation in response to either of the notices issued after the service motion. Although the applicant provided documentation of record searches conducted at various police departments, the director specifically addressed this evidence and concluded that it does not satisfy the request for specific court dispositions. Despite the director's request, the applicant has not responded with the required documentation. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

In the present matter, the petitioner has not resolved the relevant questions regarding the criminal charges against her. Therefore, CIS was unable to determine whether the applicant is eligible for temporary resident status and admissible to 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 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.