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OCT 22 2007

FILE: [REDACTED]
MSC-06-048-11221

Office: NEW ORLEANS, LA 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:

This is the decision of the Administrative Appeals Office in your case. The file has 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 application for Temporary Resident Status was denied by the Director of the New Orleans, Louisiana District Office and that decision is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because she determined that the applicant did not establish, by a preponderance of the evidence, that he maintained continuous residence in the United States from January 1, 1982 to a period of time between May 5, 1987 and May 4, 1988. Specifically, the director noted that both at the time of his interview with a Citizenship and Immigration Services (CIS) officer on November 13, 2006 and on his Form I-687 he indicated that he first entered the United States in August of 1988. It is noted here that an applicant for Temporary Resident Status must establish that he or she entered the United States before January 1, 1982, and then maintained continuous residence in the United States in an unlawful status since such date and through the date the application is filed pursuant to section 245A(a)(2) of the Immigration and Nationality Act (Act) and 8 U.S.C. § 1255a(a)(2). Here, the applicant stated that he entered the United States for the first time on a date that occurred after January 1, 1982. Therefore, the director found he was ineligible to adjust status to that of a Temporary Resident and denied the application.

While not noted by the director, it is noted here that the record indicates that the applicant has been arrested on two occasions.

His first arrest occurred on October 24, 2002 when he was arrested for and charged with vehicle theft in the state of California. Because the record does not contain a court disposition, it is unclear whether the applicant was convicted of a felony at that time. However, the California Vehicle Code General Provisions and Divisions, Division 4, Chapter 4, § 10851 indicates that vehicle theft is a crime that can result in either felony or misdemeanor convictions.

The applicant's second arrest occurred on February 4, 2003 when he was arrested in Nogales for entering the United States without inspection.

Because there are no court dispositions in the record it is unclear whether the applicant would be considered ineligible under 8 C.F.R. § 245a.2(c)(1) which states that applicants who have been convicted of a felony or three or more misdemeanors are ineligible to adjust to Temporary Resident Status

On appeal, the applicant states that he attempted to apply for legalization during the original filing period. He goes on to state that he first entered the United States in 1988. The applicant provided no additional evidence or explanation to overcome the reasons for denial of his application.

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.

A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional evidence. Nor has he addressed the grounds stated for denial. The appeal must therefore be summarily dismissed.

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