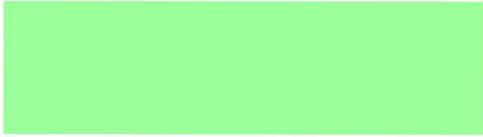
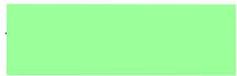


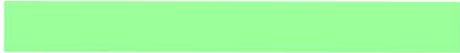


(b)(6)



Date: **MAR 05 2013** Office: HOUSTON

FILE: 

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 on your appeal. If your appeal was dismissed or rejected, your file has been sent to the National Benefits Center. You no longer have a case pending before this office. If your appeal was sustained or the matter was remanded for further action, your file has been returned to the office that originally decided your case, and you will be contacted. You are not entitled to file a motion to reopen or reconsider your case.

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for temporary resident status pursuant to the terms of the settlement agreements reached in *Catholic Social Services, Inc., et al., v. Ridge, et al.*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. 87-4757-WDK (C.D. Cal) February 17, 2004 (CSS/Newman Settlement Agreements), was denied by the Houston Field Office Director.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act), and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet (together comprising the I-687 Application). The director denied the application for temporary residence, finding that the applicant was statutorily ineligible on account of his four misdemeanor convictions.

On appeal, counsel for the applicant requested an extension of time to submit a brief. The request was granted. She also requested a copy of the record of proceedings. The request was processed on February 28, 2012. Nothing more has been submitted for the record.

The applicant has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite period, is admissible to the United States under the provisions of section 245A of the Act, and is otherwise eligible for adjustment of status.

The issue in this proceeding is whether the applicant has established his eligibility for temporary resident status pursuant to the terms of the settlement agreements. The AAO has reviewed the evidence of record, including the applicant's criminal record, and concludes that the applicant has not met his burden of proof to establish his eligibility for temporary resident status pursuant to the settlement agreements.

The record before the AAO reveals that the applicant has multiple criminal convictions. An alien who has been convicted of a felony or of three or more misdemeanors committed in the United States is ineligible for adjustment to temporary resident status. 8 C.F.R. § 245a.2(c)(1).

The term 'conviction' means, with respect to an alien, a formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where - (i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and (ii) the judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.

Section 101(a)(48)(A) of the Immigration and Naturalization Act (Act), 8 U.S.C. § 1101(a)(48)(A).

The record reflects the applicant has four misdemeanor convictions:

- A February 23, 1983 conviction for – *Unlawful carry weapon* – in the Harris County District Court (Docket No. [REDACTED]). This offense is considered a misdemeanor.

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- A [REDACTED] conviction for – *Driving while intoxicated* - in the Harris County District Court (Docket No. [REDACTED]). This offense is considered a misdemeanor. The applicant was found in violation of probation on January 23, 1985.
- A [REDACTED] conviction for – *Driving while intoxicated* – in the Harris County District Court (Docket No. [REDACTED]). This offense is considered a misdemeanor.
- A [REDACTED] conviction for – *Driving while intoxicated*– in the Harris County District Court (Docket No. [REDACTED]). This offense was prosecuted as a misdemeanor.

The applicant stands convicted of four misdemeanors. He is therefore ineligible for temporary resident status pursuant to 8 U.S.C. §1255a(4)(B); 8 C.F.R. § 245A.4(B). No waiver of such ineligibility is available. The applicant is, therefore, ineligible for temporary resident status under section 245A of the Act on this basis.

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