



**U.S. Citizenship
and Immigration
Services**

(b)(6)

[Redacted]

Date: **JAN 29 2014**

Office: TEXAS SERVICE CENTER

File: [Redacted]

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:

[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

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.

Thank you.

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The termination of the applicant's temporary resident status by the Director, Texas Service Center, is before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant was granted temporary resident status under section 245A of the Immigration and Nationality Act (Act), as amended, 8 U.S.C. § 1255a. The applicant was required to file an application to adjust status from temporary to permanent resident within forty-three (43) months of receiving his temporary resident status. See 8 C.F.R. § 245a.3(b)(1). The applicant timely filed his application to adjust status from temporary to permanent resident; however, the director denied the application, finding the applicant was ineligible due to having three or more misdemeanor convictions.

According to section 245A(b)(2)(C) of the Act, 8 U.S.C. § 1255a(b)(2)(C), the [Director of the Department of Homeland Security] shall provide for termination of temporary resident status at the end of the 43rd month beginning after the alien is granted such status, unless the alien has filed an application that has not been denied. In the instant case, the applicant timely filed an application for adjustment from temporary to permanent resident status, but it was denied. The AAO dismissed the applicant's appeal of the director's decision.

Beyond the director's decision, the applicant's three misdemeanor convictions are another basis to terminate the applicant's temporary resident status. See section 245A(b)(2)(B) of the Act, 8 U.S.C. § 1255a(b)(2)(B).

Certified court records reveal the following:

1. On September 12, 1988, the applicant was convicted under section 2 of Part 18 of the United States Code, *principal: conspires, aids, or willfully cause criminal act to be done* and 8 U.S.C. § 1325, *improper entry by an alien* in the United States District Court of [REDACTED]
2. On May 19, 1992, the applicant was convicted of *theft \$20-\$200*, a class B misdemeanor, in the District Court of [REDACTED] docket # [REDACTED]. He was sentenced to six days in jail.
3. On August 14, 1998, the applicant was convicted of *indecent exposure*, a class B misdemeanor, in the District Court of [REDACTED] docket # [REDACTED]. He was sentenced to eight days in jail.
4. On October 7, 2002, the applicant was convicted of *failure to identify oneself to a peace officer*, a class C misdemeanor, in the District Court of [REDACTED] docket # [REDACTED]. He was fined \$200. This conviction is not considered a misdemeanor as defined in the Act.

On appeal, the applicant asserts that he was not convicted of any immigration related offenses but that someone with a similar name was responsible. The court record does contain a slightly different rendition of the applicant's name, but the record was confirmed based upon an FBI report based upon the applicant's fingerprints.

The applicant has been convicted of at least three misdemeanors. He is therefore ineligible for adjustment to temporary resident status under section 245A(a)(4)(B) of the Act, 8 U.S.C. 1255a(a)(4)(B).

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