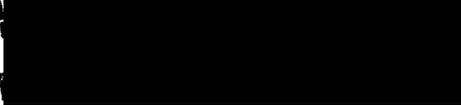


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U.S. Department of Homeland Security  
Bureau of Citizenship and Immigration Services

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prevent identity unwarranted  
invasion of personal privacy



ADMINISTRATIVE APPEALS OFFICE  
425 Eye Street N.W.  
BCIS, AAO, 20 Mass, 3/F  
Washington, D.C. 20536

SEP 29 2003

FILE:

OFFICE: Nebraska Service Center

DATE:

IN RE: Applicant:

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 210 of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT: Self-represented

**PUBLIC COPY**

INSTRUCTIONS:

Attached is the decision rendered on your appeal. The file has been returned to the Service Center that processed your case. If your appeal was sustained, or if your case was remanded for further action, the Service Center will contact you. 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, Director  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application for lack of prosecution because the applicant failed to appear on at least two occasions for the required interview regarding his Application for Temporary Residence as a Special Agricultural Worker.

Whenever an application for special agricultural worker status is denied or the status of a lawful temporary resident is terminated, the alien shall be given written notice setting forth the specific reasons for the denial on Form I-692, Notice of Denial. Form I-692 shall also contain advice to the applicant that he or she may appeal the decision and that such appeal must be taken within **30 days** following service of the notification of decision. 8 C.F.R. § 103.3(a)(3)(i). An appeal received after the thirty (30) day period has tolled will not be accepted for processing. 8 C.F.R. § 103.3(a)(3)(iv). Form I-694, Notice of Appeal, shall be used to file the appeal and must be accompanied by the appropriate fee. 8 C.F.R. § 103.3(a)(3)(ii). Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The director issued the Notice of Denial on August 28, 1989, and sent it to the applicant via certified mail. The Bureau's notice was mailed to the applicant's most current address of record at the time the decision was issued. There is no evidence in the record that the notice was returned to the Bureau as undeliverable or that the applicant failed to receive the notice. Nor is there any indication that the applicant attempted to notify the Bureau of his change of address prior to the issuance of the decision. The appeal was not received by the Bureau until February 27, 2002. The appeal was untimely filed and, therefore, must be dismissed.

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