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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: JUL 12 2005

IN RE: Applicant: [REDACTED]

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

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. 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, 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, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a Group 1 special agricultural worker was denied by the Director, Western Regional Processing Facility for Group 1 eligibility, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed for Group 1 eligibility. The case will be remanded for a determination on the applicant's eligibility for Group 2 status.

The director denied the application for Group 1 status because the applicant failed to establish the performance of at least 90 man-days of employment during the first and second Group 1 twelve-month statutory periods ending May 1, 1984 and May 1, 1985. The director did not make a determination regarding Group 2 eligibility.

According to Service records, the applicant filed an appeal on December 8, 1989. However, the appeal was misplaced and on December 5, 1990 and again on November 15, 2002, the Service requested the applicant to submit a photocopy of his original appeal or complete the enclosed appeal form. The applicant provided a duplicate appeal.

A Group 1 special agricultural worker is a worker who has performed qualifying agricultural employment in the United States for at least 90 man-days in the aggregate in each of the twelve-month periods ending May 1, 1984, 1985, and 1986, and has resided in the United States for six months in the aggregate in each of those twelve-month periods. 8 C.F.R. 210.1(f)

A Group 2 special agricultural worker is a worker who during the twelve-month period ending on May 1, 1986, has performed at least 90 man-days in the aggregate of qualifying agricultural employment in the United States. 8 C.F.R. 210.1(g)

In order to be eligible for temporary resident status, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, provided he is otherwise admissible under section 210(c) of the Act and is not ineligible under 8 C.F.R. 210.3(d).

On the application, Form I-700, the applicant claimed 103 man-days of qualifying agricultural employment for [REDACTED] and New Cuyama ranches from May 1985 to December 17, 1985. In support of his claim, the applicant submitted a corresponding Form I-705 employment affidavit

The applicant has neither claimed nor documented any employment having been performed during the first or second Group 1 twelve-month qualifying periods ending, respectively, May 1, 1984 and May 1, 1985. Consequently, the applicant cannot qualify for temporary resident status as a Group 1 special agricultural worker.

However, the Director, California Service Center, must make a determination of the applicant's Group 2 eligibility. In the event the director's decision is adverse, the applicant shall be permitted to file an appeal without fee.

ORDER: The case will be remanded for a decision on the applicant's eligibility for Group 2 status. The appeal for Group 1 status is dismissed, without prejudice to the consideration of the applicant's Group 2 eligibility.