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U.S. Department of Homeland Security  
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Washington, DC 20529



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

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LI

FILE:



Office: CALIFORNIA SERVICE CENTER

IN RE:

Applicant:



Date:

**MAR 30 2005**

PETITION: 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. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if the matter 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 2 special agricultural worker was denied by the Director, Western Service Center, reopened and again denied by the Director, Western Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director initially denied the application because the applicant failed to appear for his legalization interview. That decision was subsequently withdrawn by the director.

The director ultimately denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the statutory period and because the applicant failed to establish his admissibility due to the lack of submission of a fully and properly completed Medical Examination of Aliens Seeking Adjustment of Status, Form I-693.

On appeal from the director's final decision, the applicant submitted an employment verification letter.

In order to be eligible for temporary resident status as a special agricultural worker, 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). 8 C.F.R. 210.3(a). An applicant has the burden of proving the above by a preponderance of the evidence. 8 C.F.R. 210.3(b).

On the application, Form I-700, the applicant claimed 180 days employment for [REDACTED] and [REDACTED] in Livingston, California from May 1, 1984 to May 1, 1985. The applicant did not submit any supporting documentation.

In a notice of intent to deny, dated October 4, 2004, the applicant was informed that he was not eligible for Group 1 and Group 2 consideration because he had failed to establish that he had worked at least 90 man-days during the Group 1 or Group 2 qualifying periods. The applicant was further informed that he had failed to provide final disposition of his arrest for cocaine possession and that a conviction of that charge would render him inadmissible.

In response to the notice of intent to deny, the applicant submitted copies of payroll checks issued by Pacific Avenue Growers, Inc. dated December 27, 2003 and October 23, 2004.

On December 3, 2004, the director denied the application stating that the applicant has failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the statutory period and because the applicant failed to submit a Form I-693 (medical examination).

On appeal from that decision, the applicant submitted an employment verification letter signed by [REDACTED] who stated that he employed the applicant as an agricultural worker from May to October during the years 1984, 1985 and 1986.

The payroll statements submitted in response to the notice of intent to deny, reflect a period of employment after the qualifying period and therefore, are of no probative value to the applicant's claim to eligibility. The employment verification letter, submitted on appeal, does not specify the number of man-days the applicant worked during the twelve-month eligibility period ending May 1, 1986. Therefore, the applicant has not documented that he performed the required 90 man-days agricultural employment during the eligibility period. Consequently, the applicant is statutorily ineligible for adjustment to temporary resident status as a special agricultural worker.

Further, the applicant has failed to submit a fully completed medical report, Form I-693. Consequently, pursuant to 8 C.F.R. 210.2(d) and 8 C.F.R. 210.3(b), the applicant has failed to establish that he is admissible to the United States, and is, therefore, ineligible for temporary resident status as a special agricultural worker.

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