

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

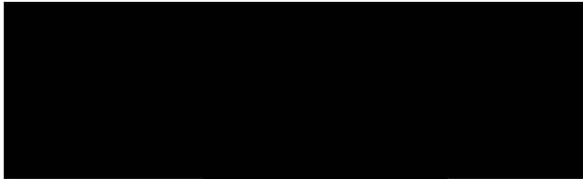
U.S. Department of Homeland Security
20 Mass. Avenue, N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

L1

PUBLIC COPY



FILE:

XTO 890 263089

Office: CALIFORNIA SERVICE CENTER

Date: OCT 02 2006

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

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, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker (Form I-700) was denied by the Director, Western Service Center, and then remanded by the Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO). The application was again denied by the Director, California Service Center, and is now before the AAO on appeal. The appeal will be dismissed.

The LAU remanded the case to the Western Service Center Director for two reasons: (1) the director had failed to explain how he reached the conclusion that the signature of [REDACTED] on the applicant's employment documentation did not match authentic signature exemplars of Mr. [REDACTED] and (2) the director failed to address the applicant's deportation.¹

On remand, the director issued a new notice of intent to deny the Form I-700 application, advising the applicant that he intended to deny the application because the applicant is excludable on the basis of her prior deportation. The director further informed the applicant that she had thirty days from the date of the notice to file a Form I-690, Waiver of Grounds of Excludability. The new notice of intent to deny was sent by certified mail on June 9, 2004, to the applicant's address of record: [REDACTED]. The notice was returned to the director, marked "NSP - Refuse."

Subsequently, on September 25, 2004, the director issued a new decision, denying the application. In this decision, the director explained that he had previously sent a notice of intent to deny to the applicant at her address of record but that she had failed to respond. The director sent the new decision by certified mail to the applicant's address of record: [REDACTED]. The applicant received this notice, because she responded to the final decision with a copy of the decision. The letter reads:

This is to request the opportunity to proof [sic] my [eligibility] for legalization, because I have not received any correspondence from you, I do not know what documents you need from me. I appreciate your attention and please let me know what is required to continue with the process of may [sic] case.

In the new notice of intent to deny, the director attempted to inform the applicant of what was required of her; i.e., a Form I-690 waiver application, but the notice was refused even though the director sent the notice to the applicant's address of record. The applicant cannot refuse to accept correspondence from Citizenship and Immigration Services (CIS) and then claim that CIS failed to advise her of the basis for its decision denying her application. The notice of intent to deny was mailed to the applicant at her address of record.

The applicant has not met the required burden of proof establishing admissibility or eligibility for temporary resident status as a Special Agricultural Worker.

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

¹ The evidence of record indicates that on January 25, 1988, the applicant was deported per section 241(a)(2) of the Act because she entered the United States without inspection.