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

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FILE:

XEC 88-143-2094

Office: CALIFORNIA SERVICE CENTER

Date: OCT 27 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 was denied by the Director, Western Service Center. The matter was then remanded by the Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO). The application was then denied by the Director, California Service Center. It 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 for the required interview regarding his Application for Temporary Residence as a Special Agricultural Worker and failed to file a complete application.

On appeal from the initial denial, the applicant indicated that he had received no notices from the Service. The applicant did not respond to the final notice.

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, and must be otherwise admissible under section 210(c) of the Act and not ineligible under 8 C.F.R. § 210.3(d).

The applicant was admitted to the United States at Calexico, California on April 5, 1988 as an S-9 applicant who established a preliminary claim to eligibility for temporary resident status as a special agricultural worker. The applicant was admitted for a period of 90 days in accordance with 8 C.F.R. 210.2(c)(4)(iii), and required, within that 90 day period, to submit a complete application, along with a Fingerprint Card, Form FD-258, to any legalization office. A complete application had to include evidence of qualifying employment, evidence of residence, a report of medical examination and the prescribed number of photographs. 8 C.F.R. 210.1(d).

The record indicates that, at the time the preliminary application was presented, the applicant signed a Service advisory statement acknowledging awareness of the requirements for submission of the required documents within the initial 90-day period.

Pursuant to Legalization Wire CO-1588-C, dated November 28, 1989, the 90 day period within which S-9 applicants were required to submit their complete applications was extended until December 31, 1989. However, the applicant failed to file a complete application by that date.

In spite of his ineligibility, the applicant was scheduled for his interview on July 8, 1997. He failed to appear. The applicant was subsequently notified in writing that he was scheduled for a second interview on March 20, 1998. He was also advised that if he did not appear for this interview, his application would be denied for lack of prosecution. The applicant once again failed to appear. Accordingly, the director denied the application on September 21, 2004 as the applicant had failed to present himself for his required interview.

The applicant did not file a complete application. Furthermore, he was provided with more than two opportunities to appear for his interview. He has failed to comply with Service requirements. Therefore, the applicant is ineligible for temporary resident status as a special agricultural worker.

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