



U.S. Citizenship  
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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: SEP 05 2006  
XEL 88 135 01062

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:



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. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

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

The director denied the application because the applicant admitted to an officer at the El Paso border that he had not performed the agricultural employment that he had initially claimed on his application.

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 record reflects that the director sent his decision of February 4, 1994 to the applicant at his address of record. The notice was returned by the post office as unclaimed. The envelope indicates that the post office provided the applicant at least two opportunities to acquire the notice before it was returned to the Texas Service Center. Therefore, the applicant's failure to receive the Notice of Decision was of his own making. The Texas Service Center received the appeal on September 28, 2004, seven months after the decision was issued. The appeal was untimely filed and, therefore, must be rejected.

**ORDER:** The appeal is rejected as untimely filed.