



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
XPH 89 014 2125

Office: CALIFORNIA SERVICE CENTER

Date: SEP 11 2006

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, Chief
Administrative Appeals Office

DISCUSSION: The applicant's temporary resident status was terminated by the Director, Western Service Center. The matter was then remanded by the Administrative Appeals Office (AAO), and the application for temporary residence was subsequently denied by the Director, California Service Center. The matter is now before the AAO on appeal. The case will be remanded for further consideration and action.

The application for temporary residence was approved on August 25, 1989. The Director, Western Service Center, then terminated the applicant's status on December 30, 1991. The applicant appealed, and the matter was remanded by the AAO on July 2, 2001, due to the lack of a Notice of Intent to Terminate temporary residence in the record. The Director, California Service Center denied the application on May 11, 2006 because the applicant failed to appear for fingerprinting. However, the denial action was improper. The applicant had already been granted temporary resident status, and there was no application pending that the director could deny. Any removal of the applicant's temporary resident status must come through termination proceedings. The regulation at 8 C.F.R. § 210.4 states that before the Service may terminate an alien's status, the alien must be given an opportunity to offer evidence in opposition to the grounds alleged for termination of his status. Here, the record does not establish that the director served a Notice of Intent to Terminate on the applicant. To properly pursue termination proceedings, the director must issue a Notice of Intent to Terminate and give the alien 30 days after service to respond before issuing another Notice of Termination. Should the director complete the termination action, the matter shall be certified to this office for review.

It is noted that the applicant's deportation proceedings were administratively closed on October 18, 1988, subject to reopening.

ORDER: The case is remanded for appropriate action and decision consistent with the foregoing.