

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

PUBLIC COPY

41



FILE: [REDACTED]
XEC 88 242 1007

Office: CALIFORNIA SERVICE CENTER

Date: SEP 29 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 application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center. The matter was remanded, and the application was denied again by the Director, California Service Center. It is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

On August 8, 1988, an individual identifying himself as [REDACTED] filed a Form I-700, Application for Temporary Resident Status as a Special Agricultural Worker, as an S-9 candidate. He indicated on his application that his date of birth was August 14, 1966, and that he had been employed by [REDACTED] during the qualifying period. He submitted a police report identifying him by photograph, a copy of his birth certificate, a Form I-693 medical examination form, and a fingerprint card. He signed the application as well as the warning letter.

At the subsequent interview, however, a Form I-705 affidavit was submitted indicating that one [REDACTED] had worked for [REDACTED] during the qualifying period. This document was placed with the original Form I-700 and applicant's name was changed to reflect that it was [REDACTED] application, not [REDACTED]. The birth date on the application was also changed to July 28, 1964, [REDACTED]'s birth date. The interviewing officer concluded from the interview that the applicant's "true" name was [REDACTED] and that he had only used [REDACTED] since 1985. [REDACTED] submitted several copies of documents containing photographs of him and a translated birth certificate indicating that he was born July 28, 1964. He submitted an affidavit of identity from [REDACTED] who indicated that he was [REDACTED] brother and that [REDACTED] used the alias [REDACTED].

On September 10, 1992, the director questioned the credibility of the two employment claims and denied the application. A Form I-694, Notice of Appeal of Decision, was submitted by [REDACTED]. He states that he has submitted sufficient evidence and that the card the Service sent him should read "[REDACTED] not [REDACTED] who is my brother." The appeal form was signed by [REDACTED].

It is noted that the instant appeal was filed by [REDACTED] rather than by the applicant or his attorney or representative. The regulation at 8 C.F.R. § 103.3(a)(iii) indicates that only an affected party or his representative have legal standing to file an appeal. 8 C.F.R. § 103.3(a)(2)(v)(A)(1) requires that an appeal filed by a person not entitled to file it must be rejected. [REDACTED] does not have legal standing to appeal the denial of his brother's application.

Based on the record it must be concluded that there were two separate individuals who submitted documentation in this proceeding. Evidence points to the application having been filed and signed by [REDACTED]. [REDACTED] submitted and signed the Notice of Appeal. However, he was not the signatory of the application. Therefore, he is not entitled to file the appeal and the appeal must be rejected.

ORDER: The appeal is rejected.