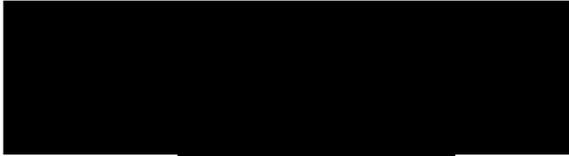




U.S. Citizenship
and Immigration
Services

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APR 04 2007

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

XEC 88 205 00029

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. 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, Western Service Center, reopened, and denied again by the Director, California Service Center. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director initially denied the application for lack of prosecution because the applicant failed to submit a complete application within the time permitted as required of S-9 preliminary applicants.

In the subsequent decision, 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 (SAW).

On appeal from the initial decision, the applicant requested an extension of time in order to supplement his appeal.

The applicant has not addressed the subsequent decision or provided any evidence to overcome the director's findings.

After being interviewed by an officer of the legacy Immigration and Naturalization Service (INS), the applicant was admitted to the United States at Calexico, California on June 18, 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 includes evidence of qualifying employment, evidence of residence, a report of medical examination and the prescribed number of photographs. 8 C.F.R. § 210.1(c).

The record indicates that, at the time the preliminary application was presented, the applicant signed a legacy INS 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. If an S-9 applicant failed to submit a complete application in accordance with the above, his application was to be denied for lack of prosecution. 8 C.F.R. § 210.2(c)(4)(iii).

The applicant was permitted until December 31, 1989 to submit a complete application; however, he failed to submit the necessary documents. Accordingly, on November 21, 1990, the director denied the application.

Pursuant to 8 C.F.R § 210.2(c)(2)(iv), each alien who filed his application in the United States, regardless of age, must appear at the appropriate Service legalization office and must be fingerprinted for the purpose of issuance of Form I-688A.

On November 16, 1992, the director reopened the proceedings. On November 24, 1992, the District Director, Phoenix, Arizona issued a Form G-56 which advised the applicant that he was scheduled for an interview on December 11, 1992 at the Phoenix legalization office. The applicant, however, failed to appear.

On August 18, 1993, the Phoenix office received a request from the applicant for a scheduled interview. The applicant submitted a copy of a letter dated December 7, 1992, which the applicant claimed was sent to the

Western Service Center.¹ The letter indicated that the applicant was unable to appear for his interview on December 11, 1992 and requested that the appointment be rescheduled. The applicant also submitted page one of a photocopied Form I-705, Affidavit Confirming Seasonal Agricultural Employment.

On August, 23, 1993, the Western Service Center received documentation from the applicant indicating that he was willing to appear for an interview along with employment documents attesting to his employment during the twelve-month eligibility period ending May 1, 1986.

On October 21, 1993, November 1, 1993, and January 27, 1994, a Form G-56 was issued and sent to the applicant's address of record, informing the applicant of scheduled interviews on November, 18, 1993 and February 10, 1994. It is noted that the notices dated October 21, 1993 and November 1, 1993 indicated the reason for the applicant's appointment on November 18, 2003 as "C.S.S./Reinterview." An application for SAW status does not constitute an application for class membership in the Catholic Social Services legalization class-action lawsuit. Although the reason for the applicant's appointment was incorrect, the applicant, nevertheless, failed to appear for his scheduled interview.

It appears that the applicant did come in for his February 10, 1994 interview, as the record contains notes from an officer of the legacy INS indicating, "[t]old to call us to reschedule-our camera wasn't working-not able to issue card (I-688A) under CSS." The record, however, does not contain evidence that the required Form I-693, Medical Examination, Form FD-258, fingerprint card, and the prescribed number of photographs were submitted on February 10, 1994.

On January 13, 1995, a Form G-56 was issued and sent to the applicant's address of record, informing the applicant of a scheduled interview on March 9, 1995. The notice indicated the reason for the appointment as "[t]o be processed for the issuance of an employment authorization card, Form I-688A." The notice, however, was returned by the post office as undeliverable, box closed-no order. To date, no new address has been presented by the applicant.

As noted above, the applicant was permitted until December 31, 1989 to submit a complete application; however, he failed to submit all the necessary documentation. The applicant was provided the opportunity on several occasions to appear before the Phoenix legalization office to submit a complete application along with the required fingerprint card. Accordingly, the director denied the application on October 16, 2006 as the applicant failed to comply with the regulation 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.

¹ The applicant submitted a PS Form 3800, Receipt for Certified Mail, which indicated that something was sent via certified mail on December 8, 1992 to the Western Service Center.