



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE: [Redacted]
XSA 88 050 7056

Office: CALIFORNIA SERVICE CENTER

Date: DEC 17 2007

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:

[Redacted]

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. 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 of the Western Service Center, now the California 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 failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on adverse information relating to the applicant's claim of employment for farm labor contractor [REDACTED]

An adverse decision on an application to adjust to temporary resident status may be appealed to the Administrative Appeals Office. Any appeal with the required fee shall be filed with the Service Center within thirty (30) days after service of the notice of denial or termination. An appeal received after the thirty-day period has tolled will not be accepted. *See* 8 C.F.R. § 245a.3(j). 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 director issued a Notice of Denial on June 16, 1992, and sent it to the applicant's address of record, "[REDACTED]," via certified mail. The notice was returned to the Western Service Center as unclaimed mail. On the same date the denial decision was issued, June 16, 1992, the applicant mailed a change of address card to the Western Service Center. The record contains a letter from the applicant dated May 26, 1992, in which he inquired about the status of his case and reported his new address. The applicant mailed copies of his letter to the District Director, Los Angeles, and to the Western Service Center via certified mail. The copy of the applicant's letter addressed to the Los Angeles District Office was received on June 18, 1992. The copy of the applicant's letter addressed to the Western Service Center was received on June 17, 1992. Unfortunately, the applicant's change of address card and letters of inquiry were not received by the Immigration and Naturalization Service, now Citizenship and Immigration Services, until after the issuance of the denial decision. The appeal was not received until April 12, 1993, almost ten months after the issuance of the denial decision. The appeal was untimely filed and, therefore, must be rejected.

ORDER: The appeal is rejected.