



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
XVN 89 643 1018

Office: CALIFORNIA SERVICE CENTER

Date: DEC 19 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: 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. 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. The Chief of the Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO), remanded the matter for further consideration and action. The director denied the application again, and the matter is now before the Administrative Appeals Office on appeal. The matter will be remanded for further action.

The director initially denied the application on July 20, 1992, 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 regarding the applicant's claim of employment for [REDACTED]. Specifically, the director concluded the signature of Gloria Sandoval on the applicant's Form I-705 employment affidavit did not appear to match known exemplars of Ms. [REDACTED] signature obtained by the Immigration Service (the Service), now Citizenship and Immigration Services (CIS).

On August 12, 1992, the applicant filed an appeal from the denial decision. On appeal, the applicant reiterated his employment claim for [REDACTED] and submitted an affidavit in support of his claim.

The Chief of the LAU remanded the matter on February 20, 2001, because the signature discrepancy cited by the director in the denial decision was minimal and there was no indication in the record that a forensic examination had been conducted to determine the authenticity of Ms. [REDACTED] signature on the applicant's Form I-705.

On February 22, 2006, the case was reopened and a fingerprint appointment notice was issued and mailed to the applicant at "[REDACTED]." The notice was returned to CIS as unclaimed mail. A second fingerprint appointment notice was generated and mailed to the applicant on March 27, 2006. This appointment notice was mailed to the applicant at "[REDACTED]" but this notice was also returned to CIS as unclaimed mail.

The director denied the application again on September 27, 2006, because the applicant failed to appear for two fingerprint appointments as scheduled. The director informed the applicant in the notice of decision that his appeal was still in effect and granted the applicant 30 days to submit evidence to overcome the basis for the denial of the application.

The applicant, in response, stated that he did not receive either fingerprint appointment notice even though he had reported his address changes to CIS. The applicant further stated that, if he had received either fingerprint notice, he would have appeared for his fingerprint appointment as scheduled.

A review of the record of proceeding indicates that neither fingerprint notice was mailed to the correct address. On October 11, 2005, the applicant reported a new address, "[REDACTED], [REDACTED]" to CIS on a Form I-765, Application for Employment

Wilmington, CA 90744," to CIS on a Form I-765, Application for Employment Authorization. Both fingerprint appointment notices were mailed to the applicant at outdated addresses.

The director improperly denied the application due to the applicant's failure to appear for his fingerprint appointments, since the fingerprint appointment notices were both mailed to outdated addresses. Therefore, the matter will be remanded and the applicant shall be provided with another opportunity to be fingerprinted. If the applicant's fingerprint results report reveals no criminal record, the director shall fully adjudicate the application. If the director discovers any additional derogatory evidence pertinent to the applicant's employment claim, such evidence must be entered into the record of proceeding. The director shall advise the applicant of any derogatory evidence incorporated into the record and allow the applicant an opportunity to submit evidence to rebut such evidence.

ORDER: The director's decision is withdrawn. The matter is remanded for appropriate action consistent with the foregoing.