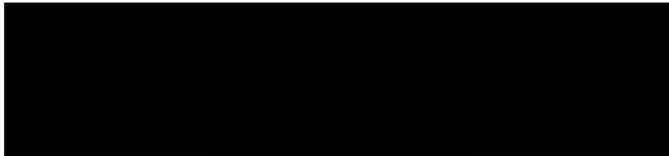


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U.S. Citizenship  
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FILE: [Redacted]  
XOX 88 547 3061

Office: CALIFORNIA SERVICE CENTER

Date: FEB 05 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.

A handwritten signature in cursive script that reads "Mai Johnson".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status was denied by the Director, Western Service Center. The matter was remanded by the Administrative Appeals Office (AAO).<sup>1</sup> The application was then denied by the Director, California Service Center, and is before the AAO on appeal. The appeal will be dismissed.

The application was initially denied because the applicant failed to demonstrate that he had performed qualifying agricultural employment during the 12-month period ending May 1, 1986. This decision was based on adverse information acquired by the Service relating to the applicant's claim of employment for [REDACTED]. On July 7, 1999, the AAO remanded the case finding that the director erred in concluding that the applicant failed to respond to the director's intent to deny the application. The AAO further determined that the director's derogatory information was inconclusive as it relates to the applicant. On March 10, 2007, the director again denied the application because the applicant failed to respond to a request for evidence.

In order to be eligible for temporary resident status as a special agricultural worker, an alien must have engaged in qualifying agricultural employment for at least 90 man days during the twelve month period ending May 1, 1986, provided he is otherwise admissible under section 210(c) of the Act and is not ineligible under 8 C.F.R. 210.3(d). 8 C.F.R. § 210.3(a). An applicant has the burden of proving the above by a preponderance of the evidence. 8 C.F.R. § 210.3(b).

On the Form I 700 application, the applicant claimed to have worked for only one employer or contractor, [REDACTED] for 115 man-hour days picking sugar peas and stringing stakes from June 1985 to October 1985 at the [REDACTED], San Luis Obispo, California.

In support of his claim, the applicant submitted a Form I-705 affidavit from [REDACTED]. In his affidavit, [REDACTED] indicated that the applicant worked for him for 115 man-hour days picking and stringing sugar peas from May 1, 1985 to May 1, 1986.

On December 30, 2004, the director informed the applicant that his fingerprint checks came back with a positive response from the FBI and requested the court disposition for the following arrests:

On January 23, 1990, the San Luis Obispo Police Department arrested the applicant for *Inflict Corp Injure Spouse/Cohab*.

On December 11, 2000, the San Diego Sheriff's Office arrested the applicant and charged him on one count of *DUI, Alcohol/Drugs*. He was subsequently charged with violating section 23152(b) of the California Vehicle Code, *DUI Alcohol 0.08 Percent*, a misdemeanor. (Court docket number [REDACTED])

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<sup>1</sup> The AAO remanded the case to the director because the director issued a decision, finding that the applicant had failed to respond to a notice of intent to deny (NOID). AAO determined that the applicant had responded to the NOID prior to the issuance of a final decision.

The applicant failed to respond to the request for additional evidence; therefore, the director issued a notice of denial on March 10, 2005. Declarations by an applicant that he has not had a criminal record are subject to verification by the Service. The applicant must agree to fully cooperate in the verification process. The regulation at 8 C.F.R. § 210.3(b)(3) states all evidence regarding admissibility and eligibility submitted by the applicant for adjustment of status will be subject to verification by the Service. Failure by the applicant to release information may result in the denial of the benefit sought. The regulation at 8 C.F.R. § 210.3(c) states, in part: "A complete application for adjustment of status must be accompanied by proof of identity, evidence of qualifying employment, evidence of residence and such evidence of admissibility or eligibility as may be requested by the examining immigration officer." The AAO affirms the director's decision, finding the applicant's failure to respond to a request for additional evidence as a sufficient basis for denial of the application.

An alien applying for adjustment of status has the burden of proving by a preponderance of the evidence that he or she is admissible to the United States under the provisions of section 210(c) of the Act, 8 U.S.C. § 1160, and is otherwise eligible for adjustment of status under this section. 8 C.F.R. § 210.3(b)(1). The applicant has failed to meet this burden.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.