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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:



XWI 89 015 0001

Office: NEBRASKA SERVICE CENTER

Date: FEB 16 2007

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. 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 "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Nebraska Service Center. The Legalization Appeals Unit remanded the case to the director. The director issued a new decision and the matter now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

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 regarding the applicant's claim of employment for [REDACTED]

The applicant appealed the decision. The Legalization Appeals Unit remanded the case for further consideration and action because the director relied upon adverse information that was not in the record.

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, and must be otherwise admissible under the provisions of section 210(c) of the Act and 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). According to the regulation at 8 C.F.R. 210.2(c)(iv), each applicant must appear to be fingerprinted.

It is noted that the applicant was arrested on June 25, 1990 by the Cimarron Sheriff in Kansas and charged with possession of marijuana. According to information in the record, the applicant was convicted on this offense on July 24, 1990. The record does not contain court records of the final disposition.

The evidence in the record indicates that the applicant was placed in removal proceedings on January 24, 2000. On March 23, 2000 he was ordered deported and was removed by the El Paso district office and received a 10-year barment on March 23, 2000.

The director subsequently notified the applicant to appear for fingerprinting on May 24, 2005 at the Wichita Kansas Application Support Center. The applicant failed to appear; therefore, the director denied the application.

The applicant has failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the twelve-month statutory period ending May 1, 1986. The applicant failed to appear for fingerprinting as required by the regulation at 8 C.F.R. § 210.2(c)(iv). Consequently, the applicant is ineligible for adjustment to temporary resident status as a special agricultural worker.

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