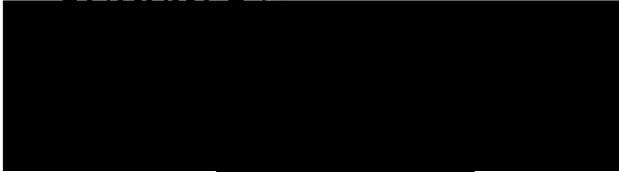


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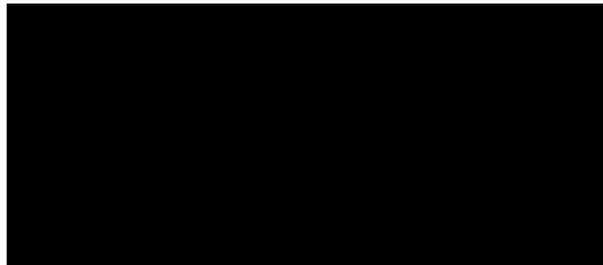
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FILE: [Redacted]  
XDE-88-111-4028

Office: Nebraska Service Center

Date: JAN 17 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:



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 was denied by the Director, Northern Regional Processing Facility. The matter was remanded by the Administrative Appeals Office (AAO). The application was then denied by the Director, Nebraska 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. Subsequent to the remand, the Director, Nebraska Service Center, denied the application because the applicant had been convicted of three misdemeanors.

Counsel has not responded to the second notice of denial. In response to the notice of intent to deny that preceded the second denial, an attorney who did not submit Form G-28, Notice of Entry of Appearance as Attorney or Representative, indicated that one of the three offenses might have been a petty offense rather than a misdemeanor.

An applicant is ineligible for temporary residence if he or she has been convicted of any felony or three or more misdemeanors in the United States. 8 C.F.R. § 210.3(d)(3).

On October 21, 1985, the applicant pled guilty in Weld County (Colorado) Court to *Driving While Ability Impaired*, section 42-4-1202 of the Colorado Revised Statutes, case # [REDACTED]. Another charge under section 42-4-1202, *DWEAC*, was dismissed.

On March 6, 1985, in the same court, the applicant pled guilty to *Theft*, section 18-4-401 of the Colorado Revised Statutes, case # [REDACTED].

Finally, on June 20, 1988 the applicant pled guilty in the same court to *Driving While Ability Impaired*, section 42-4-1202 of the Colorado Revised Statutes, case # [REDACTED].

Although the applicant was arrested for *Failure to Appear* on September 16, 1984 by the Weld County Sheriff, it is not known whether charges were filed.

No documentation has been submitted which would indicate, much less establish, that the convictions shown above related to infractions or offenses other than misdemeanors. The applicant is ineligible for temporary residence due to his three misdemeanor convictions.

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.