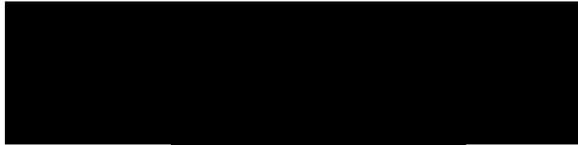


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FILE:

XPB 88 195 2035

Office: California 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 as a special agricultural worker was denied by the Director, Western Service Center. The matter was remanded by the Administrative Appeals Office (AAO). The application was then reopened and denied by the Director, California Service Center, and the appeal was subsequently dismissed by the AAO. The matter will now be reopened by the AAO, and remanded to the Director, California Service Center for further consideration and action.

The application was initially denied because the applicant had failed to demonstrate the performance of qualifying agricultural employment. The Director, California Service Center, withdrew that denial and rendered a new denial based solely on the applicant's failure to appear and be fingerprinted as required. However, the notice advising the applicant to appear was not mailed to the applicant's correct address, and he did not receive it.

Pursuant to 8 C.F.R. 103.5(b), the Administrative Appeals Office will *sua sponte* reopen or reconsider a decision under section 210 of the Immigration and Nationality Act, 8 U.S.C. § 1160, when it determines that manifest injustice would occur if the prior decision were permitted to stand. *Matter of O--*, 19 I&N Dec. 871 (Comm. Feb. 14, 1989). In light of the error, the dismissal of the appeal is withdrawn and the matter is reopened.

The Director, California Service Center shall send a notice to the applicant's current address, [REDACTED] [REDACTED] advising him to report for fingerprinting, and shall then complete the adjudication of the application. Should the decision be adverse, it shall be certified to this office for review.

ORDER: The matter is remanded for appropriate action and decision consistent with the foregoing.