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U.S. Citizenship  
and Immigration  
Services

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FILE:

XTA 88 210 02006

Office: TEXAS SERVICE CENTER

Date:

JUN 04 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. Any further inquiry must be made to that office.

  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status as a special agricultural worker was denied by the Director, Southern Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director denied the application because the applicant was found inadmissible under section 212(a)(2)(A)(i)(I)(II) of the Immigration and Nationality Act due to his drug conviction on May 26, 1987.

Whenever an application for special agricultural worker status is denied or the status of a lawful temporary resident is terminated, the alien shall be given written notice setting forth the specific reasons for the denial on Form I-692, Notice of Denial. Form I-692 shall also contain advice to the applicant that he or she may appeal the decision and that such appeal must be taken within 30 days following service of the notification of decision. 8 C.F.R. § 103.3(a)(3)(i). An appeal received after the thirty (30) day period has tolled will not be accepted for processing. 8 C.F.R. § 103.3(a)(3)(iv). Form I-694, Notice of Appeal, shall be used to file the appeal and must be accompanied by the appropriate fee. 8 C.F.R. § 103.3(a)(3)(ii). Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The record reflects that the director sent his Notice of Decision of September 9, 1993, to the applicant at his address of record. The notice was returned by the post office as undeliverable. The record contains no evidence of a change of address prior to the issuance of the director's decision<sup>1</sup>. Therefore, the applicant's failure to receive the Notice of Decision was of his own making. The Southern Service Center received the appeal on May 27, 1994, over eight months after the decision was issued. The appeal was untimely filed and, therefore, must be rejected.

**ORDER:** The appeal is rejected as untimely filed.

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<sup>1</sup> The applicant provided a change of address in December 1993. A courtesy copy of the Notice of Decision was mailed to the applicant's new address on April 12, 1994.