



U.S. Citizenship
and Immigration
Services

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invasion of personal privacy

[Redacted]

FILE:

[Redacted]

Office: CALIFORNIA SERVICE CENTER

Date: **MAY 04**

XCA 88 025 01110

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. 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, Western Regional Processing Facility, reopened, and denied again by the Director, Western Service Center. The matter was remanded by the Administrative Appeals Office (AAO). The Director, California Service Center, reopened the proceedings, and denied the application again. The matter is now before the AAO on appeal. The appeal will be dismissed.

The Director, Western Service Center, denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the statutory period. This conclusion was based on evidence adverse to the applicant's claim of employment for [REDACTED] and the applicant's revised claims of employment submitted in response to the Notice of Intent to Deny.

On January 3, 2002, the AAO remanded the case as the applicant was not advised of the adverse evidence prior to the issuance of the Notice of Decision.

The Director, California Service Center denied the application because the applicant failed to submit the request court disposition.

The regulation at 8 C.F.R. § 210.3(d)(3) states in part that an alien who has been convicted of a felony or three or more misdemeanors committed in the United States is ineligible for temporary resident status.

"Felony" means a crime committed in the United States punishable by imprisonment for a term of more than one year, regardless of the term such alien actually served, if any, except when the offense is defined by the state as a misdemeanor, and the sentence actually imposed is one year or less, regardless of the term such alien actually served. 8 C.F.R. § 245a.1(p).

An alien is inadmissible if he has been convicted of, or admits having committed, or admits committing acts which constitute the essential elements of a violation of (or a conspiracy to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 802 Title 21). Section 212(a)(2)(A)(i)(II) of the Act.

Citizenship and Immigration Services record reflects that on April 28, 1988, the applicant was arrested by the Sheriff's Office in Yuma County, Arizona for possession of dangerous drugs. On July 28, 1988, the applicant was convicted of possession of drug paraphernalia, a felony. The applicant was placed on probation for three years. The applicant subsequently violated his probation and on December 14, 1988 a warrant (no. [REDACTED]) was issued.

On September 8, 2006, the director issued a Notice of Intent to Deny, advising the applicant to submit the court disposition for the above offense. The notice was sent to the applicant's address of record; however, it was returned by the post office as undeliverable – moved. On November 17, 2006, the director denied the application. To date, no new address has been provided by the applicant.

Declarations by an applicant that he has not had a criminal record are subject to a verification of facts by the Service. The applicant must agree to fully cooperate in the verification process. 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 Citizenship and Immigration Services. Failure by the applicant to release information may result in the denial of the benefit sought. Additionally, 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 in accordance with such requirements specified in this part."

It is concluded the applicant has failed to provide the court disposition necessary for the adjudication of his 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.