

Information data deleted to prevent clearly unwarranted invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship and Immigration Services

PUBLIC COPY



41

FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: **SEP 07 2007**
XST-88-179-01007

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. The file has been returned to the service center that processed 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, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker (the SAW program) was denied by the Director, Western Service Center (Service Center). The applicant appealed to the Administrative Appeals Office (AAO). The appeal was dismissed by the AAO. The applicant submitted a motion to reopen *sua sponte*. The motion will be denied.

In his decision, the Director, California Service Center, explained that the applicant had failed to overcome the reasons for denial that were explained in the Notice of Intent to Deny (NOID). In the NOID, the director explained that the applicant had been arrested and/or convicted of the following crimes: Drunk driving, and manslaughter in driving of vehicle. The director had requested that the applicant submit court dispositions for these charges. The applicant failed to submit court dispositions within the allotted time. As a result, the director denied the application.

The Director, Legalization Appeals Unit, dismissed the appeal because the applicant failed to provide documents necessary for the adjudication of his application. Declarations by an applicant that he has not had a criminal record are subject to verification of facts by Citizenship and Immigration Services. The applicant provided letters from the California Department of Motor Vehicles, the California Department of Justice, and the Federal Bureau of Investigations, none of which establish that the charges against the applicant have been dismissed or were in error.

Pursuant to 8 C.F.R. § 103.5(b), the Legalization Appeals Unit will *sua sponte* reopen or reconsider a decision under Section 245A of the Immigration and Nationality Act (the Act) when it determines that manifest injustice would occur if the prior decision was permitted to stand. *Matter of O-*, 19 I&N Dec. 871 (Comm. 1989).

The record does not indicate manifest injustice will occur if the prior decision is permitted to stand. An applicant 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. Therefore, the motion to reopen is denied.

ORDER: The motion to reopen *sua sponte* is denied.