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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED]
XYA 88 230 01048

Office: NEBRASKA SERVICE CENTER

Date: JUL 30 2008

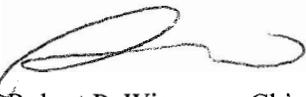
IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Resident Status under 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 National Benefits Center. 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, Northern Regional Processing Facility, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director denied the application based on adverse information, which Citizenship and Immigration Services (CIS) obtained with regard to the evidence submitted by the applicant in his effort to establish that he was employed in the field of agriculture for the requisite number of man days during the statutory period.

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 director issued the Notice of Denial on July 3, 1991.¹ The appeal was not received until May 16, 1994, or nearly three years after the denial notice had been issued. The appeal was untimely filed and, therefore, must be rejected.

Additionally, the AAO notes that even if the appeal had been deemed timely filed, it would have been subject to a summary dismissal. As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. In the present matter, the applicant merely indicated that he was appealing the director's decision because his employment authorization application had been denied. The applicant has neither presented additional evidence nor addressed the grounds stated for denial.

Regardless, as previously stated, the applicant's appeal will be rejected due to the applicant's untimely filing of the Form I-694.

ORDER: The appeal is rejected as untimely filed.

¹ The record shows that the applicant submitted a change of address card dated May 22, 1989, notifying CIS of a change in his residential address. However, the applicant completed this form incorrectly, showing his updated address as his old address and his old address as his current address. It is noted that the notice of denial was sent to the address shown as the updated address.