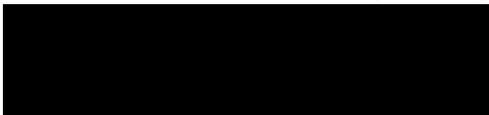


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U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536



File:



Office: California Service Center

Date:

AUG 18 2003

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

PUBLIC COPY

INSTRUCTIONS:

Attached is the decision rendered on your appeal. 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, the Service Center will contact you. 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. Wiermann, Director
Administrative Appeals Office

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

The director denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on adverse information acquired by the Service (now the Bureau) relating to the applicant's claim of employment for Alex Valladares at Salinas Farms.

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** after 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 Notice of Denial was issued by the Bureau on November 12, 1991, and sent to the applicant at his address of record via certified mail. The record contains a postal return receipt signed by an individual with the same family name as the applicant, acknowledging receipt of the notice at this address. On appeal, the applicant indicates that he never received any correspondence relating to the denial of his application. However, the record shows that the applicant listed [REDACTED] as his address of record on the Form I-700 application. The Bureau mailed both the Notice of Intent to Deny and Notice of Denial to the applicant at this address and the record contains two postal return receipts acknowledging receipt of both of the Bureau's notices. The record shows that the applicant failed to inform the Bureau of any change in his address of record prior to the receipt of his appeal on May 14, 2002. Therefore, the applicant's failure to file a timely appeal cannot be viewed as being attributable to any error made by the Bureau.

The appeal was received by the Bureau on May 14, 2002. The appeal was untimely filed and, therefore, must be dismissed.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.