

PUBLIC COPY

U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

...to
**prevent clearly unwarranted
invasion of personal privacy**



U.S. Citizenship
and Immigration
Services



24

MAY 25 2004

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

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:



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 was initially denied and subsequently reopened by Director, Western Service Center. The case was denied again by the Director, California Service Center. The appeal is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In both decisions, the directors denied the application because the applicant failed on numerous occasions to appear for his required interview regarding his Form I-700 Application for Temporary Residence as a Special Agricultural Worker.

On appeal of the initial decision from the Director, Western Service Center, the applicant asserted that he had failed to receive any correspondence regarding his case and that he was, therefore, unaware of the reasons his application had been denied.

The applicant did not respond to the subsequent decision of the Director, California Service Center.

In order to be eligible for temporary resident status as a special agricultural worker, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, and must be otherwise admissible under section 210(c) of the Act and not ineligible under 8 C.F.R. 210.3(d).

Pursuant to 8 C.F.R. 210.2(c)(2)(iv), each alien who filed his application in the United States, regardless of age, must appear at the appropriate Service legalization office and must be fingerprinted. Each applicant shall be interviewed by an immigration officer, except that the interview may be waived when it is impractical because of the health of the applicant.

The applicant was scheduled for his interview on October 25, 1988. However, he failed to appear for the interview. The applicant was subsequently notified in writing that he had been scheduled for a second interview on February 1, 1989. He was also advised that if he did not appear for this interview, his application would be denied for lack of prosecution. The applicant once again failed to appear. Accordingly, the Director, Western Service Center, denied the application on November 1, 1990 as the applicant had failed to present himself for his required interview.

Subsequently, on July 24, 1993, the director withdrew his prior decision and reopened the case. The applicant was subsequently notified in writing on November 13, 1996 that he had been scheduled to appear for his legalization interview on January 6, 1997. However, the applicant failed to appear. Although he was notified again on February 9, 1999 that he was to appear for an interview on May 6, 1999, but failed yet again to appear.

Accordingly, on May 1, 2001, the Director, California Service Center, again denied the application due to the applicant's failure to comply with the requirement that he appear for his legalization interview.

The applicant has been provided with numerous opportunities to appear for his required interview. Nevertheless, he has failed to appear on these occasions and, as such, is not in compliance with Citizenship and Immigration Service (CIS) requirements. The applicant is, therefore, ineligible for temporary resident status as a special agricultural worker.

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