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U.S. Citizenship
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Services

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JUN 20 2005

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:

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 Group 2 special agricultural worker was denied by the Director, Western Service Center, and is now before the Administrative Appeal 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 statutory period.

On appeal, the applicant stated that he was trying to contact his former employer to get evidence to correct the error.

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, provided he is otherwise admissible under section 210(c) of the Act and is not ineligible under 8 C.F.R. 210.3(d). 8 C.F.R. 210.3(a). An applicant has the burden of proving the above by a preponderance of the evidence. 8 C.F.R. 210.3(b).

On the application, Form I-700, the applicant claimed 120 man-days employment picking strawberries for [REDACTED] at Fujishige Farms from February 1985 to May 1985. In support of his claim, the applicant submitted a corresponding Form I-705 affidavit and evidence of more recent non-qualifying 1987 employment.

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 statutory period.

In his October 16, 1997 appeal, the applicant stated that he was trying to contact his former employer to get evidence to correct the error regarding his employment dates. To date, no additional statements or documentary evidence has been forthcoming.

The applicant's claimed employment occurred outside of the twelve-month eligibility period ending May 1, 1986. The applicant has neither claimed nor documented that he/she performed agricultural employment during the eligibility period. Consequently, the applicant is statutorily ineligible for adjustment to temporary resident status as a special agricultural worker.

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