

PUBLIC COPY

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



U.S. Citizenship
and Immigration
Services

L4

FILE:



Office: CALIFORNIA SERVICE CENTER

Date: FEB 27 2006

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.

A handwritten signature in black ink that reads "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

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

The director initially denied the application because of credibility issues raised by the applicant's claimed employment [REDACTED]. The director finally denied the application because the applicant failed to appear and submit a current Form FD-258, Fingerprint Card.

On appeal from the initial denial, the applicant requested a copy of his legalization file. The Service complied with the request on March 8, 1993. Thereafter, the applicant submitted additional evidence on May 27, 1993. The record does not contain any further response by the applicant to subsequent notices.

On February 2, 2001, the case was finally remanded for a new decision fully addressing all the evidence. On October 5, 2004, the applicant was requested to appear at the U.S. Citizenship & Immigration Services (USCIS) office in St. Paul, Minnesota during the 87 day period beginning November 4, 2004, to be fingerprinted and have his fingerprints examined for eligibility by the FBI. The notice was returned to the Service unclaimed. Thus, the applicant's failure to receive the notice was due to his own making. On December 7, 2004, the director denied the application because he had been unable to contact the applicant and the applicant had failed to appear for the required fingerprinting.

As of March 29, 1998, applicants for Temporary Resident Status as a Special Agricultural Worker (I-700) are required to be fingerprinted at a USCIS Application Support Center or USCIS approved Designated Law Enforcement Agency.

Declarations by an applicant that he /she has not had a criminal record are subject to verification of facts by the Service. The applicant must agree to fully cooperate in the verification process. 8 C.F.R. § 210.3(b)(3) states all evidence regarding admissibility and eligibility submitted by an applicant for adjustment of status will be subject to verification by the Service. Failure by an applicant to release information may result in the denial of the benefit sought. Additionally, 8 C.F.R. § 210.3(c) states in part: "A complete application for adjustment of status must be accompanied by proof of identity, evidence of qualifying employment, evidence of residence, and such evidence of admissibility or eligibility as may be required by the examining immigration officer in accordance with such requirements specified in this part."

The applicant failed to appear as required for fingerprinting. Consequently, the applicant has not met the required burden of proof establishing admissibility or eligibility for temporary resident status as a Special Agricultural Worker.

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