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U.S. Citizenship
and Immigration
Services

44

FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **FEB 27 2006**

IN RE:

Applicant: ELIAS GARCIA ROSAS

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 denied by the Director, Western Service Center, remanded by the Administrative Appeals Office (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 for [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 reaffirmed his claimed eligibility. The record does not contain a response to the final notice.

On January 17, 2002, the case was remanded for a new decision fully addressing all the evidence. On October 4, 2004, the applicant was requested to appear at the U.S. Citizenship & Immigration Services (USCIS) office in San Jose, California during the 87 day period beginning September 23, 2004, to be fingerprinted and have his fingerprints examined for eligibility by the FBI. The applicant failed to appear. On January 25, 2005, the director denied the application because the applicant failed to appear for the required fingerprinting. The applicant was also denied for failing to submit a completed medical examination Form I-693, previously requested.

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.