



U.S. Citizenship
and Immigration
Services

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FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER
XAH-88-534-7006

Date:

IN RE: Applicant: [Redacted]

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. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if the matter 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, Chief
Administrative Appeals Office

DISCUSSION: The applicant's temporary resident status as a special agricultural worker was terminated by the Director, Western Service Center. The matter was remanded by the Administrative Appeals Office (AAO), and then improperly denied by the Director, California Service Center. The matter is now before the AAO. It will be remanded for further consideration and action.

The Director, California Service Center denied the application because of adverse evidence acquired as a result of the applicant's claimed employment for [REDACTED] and because the applicant failed to appear for fingerprinting. However, the director erred in denying the application on March 25, 2005, as the applicant had temporary resident status, which was restored by the AAO's remand order, dated January 29, 2001. There was no pending application for the director to deny. The record contains no evidence of the director undertaking any termination action since the remand..

The director may continue with the original termination of the temporary resident status of the applicant only if he finds that the adjustment to temporary resident status was the result of fraud or willful misrepresentation as set forth in section 212(a)(6)(C)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(6)(C)(i), formerly section 212(a)(19) of the Act.

The case will be remanded for the purpose of a new decision addressing the above. Should a new decision be to terminate, the applicant will first be provided with a Notice of Intent to Terminate and afforded the opportunity to respond.

ORDER: The case is remanded for appropriate action and decision consistent with the foregoing.