



U.S. Citizenship  
and Immigration  
Services

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prevent clearly unwarranted  
invasion of personal privacy

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: MAR 03 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.

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, and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further consideration and action.

The director concluded the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. This conclusion was based on: 1) adverse information obtained from Service attempts to verify the applicant's claimed employment, and 2) the applicant's failure to respond to the Service's notice communicating the adverse information.

The case was remanded for a new decision and for compliance with the applicant's request for a copy of the record on January 22, 2001. The Service complied with a request for a copy of the record on January 20, 2005. However, the case was not reopened for a new decision addressing all the evidence submitted by the applicant. It remains that, on June 9, 1991, the applicant submitted additional employment documentation in response to the notice of intent to deny. This documentation was received by the Service prior to the issuance of a decision in the applicant's case. However, the applicant's response was not considered by the director in his decision since the denial notice specifically states the applicant failed to respond to the Service's notice.

The case will be remanded for the purpose of a new decision addressing the above. Should a new decision be adverse, the applicant will be permitted to file an appeal without a fee.

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