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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

XEL-88-124-3115

Office: NEBRASKA SERVICE CENTER

Date: JUN 12 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.

Maig Jensen

R Robert P. Wiemann, Chief
Administrative Appeals Office

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

The director denied the application because the applicant admitted at the interview that he had not performed the agricultural employment that he had initially claimed on his application and that he had purchased his documentation for \$600.00.

Whenever an application for special agricultural worker status is denied or the status of a lawful temporary resident is terminated, the alien shall be given written notice setting forth the specific reasons for the denial on Form I-692, Notice of Denial. Form I-692 shall also contain advice to the applicant that he or she may appeal the decision and that such appeal must be taken within **30 days** following the service of the notification of decision. 8 C.F.R. § 103.3(a)(3)(i). An appeal received after the thirty (30) day period has tolled will not be accepted for processing. 8 C.F.R. § 103.3(a)(3)(iv). Form I-694, Notice of Appeal, shall be used to file the appeal and must be accompanied by the appropriate fee. 8 C.F.R. § 103.3(a)(3)(ii). Whenever a person has the right to or is required to do some act within the prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The director issued the Notice of Decision on December 27, 1993, and sent it to the applicant's address of record via certified mail. There is no evidence that this decision was returned as undeliverable. The appeal was not received until August 1, 1994.

It is noted that on appeal, the applicant claims that his Form I-687 application for status as a temporary resident was approved on December 28, 1993. He provides a copy of a Form I-797 approval notice. He claims that he was unaware that the Service Center director had denied the Form I-687 until July 21, 1994, when he went to a local office and was advised of the denial. However, the record of proceeding contains a letter dated March 4, 1994, addressed to the applicant in Chicago and advising him that his application for a new Form I-551 was denied because his Form I-687 had been denied on December 27, 1993. Even if the applicant had not received the December 27, 1993 denial notice, he was aware of the denial since at least March 4, 1994. Accordingly, the August 1994 appeal was untimely filed and, therefore, must be rejected.

ORDER: The appeal is rejected.