



U. S. Citizenship
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Services

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FILE: [REDACTED] Office: TEXAS SERVICE CENTER
XDE-88-237-4059

Date: MAY 12 2006

INRE: 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:



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, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the District Director, Denver, Colorado, and then reopened and denied again by the Director, Northern Regional Processing Facility. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The directors concluded the documentation submitted did not satisfy the applicant's burden of proof of having performed qualifying agricultural employment. These decisions were based on adverse information acquired by the Immigration and Naturalization Service and Citizenship and Immigration Services (CIS) relating to the applicant's claim of employment for

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 1-692, Notice of Denial. Form 1-692 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 CF.R. § 103.3(a)(3)(i). An appeal received after the thirty (30) day period has tolled will not be accepted for processing. 8 CF.R. § 103.3(a)(3)(iv). Form 1-694, Notice of Appeal, shall be used to file the appeal and must be accompanied by the appropriate fee. 8 CF.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. CF.R. § 103.5a(b).

The district director initially denied the application on June 9, 1989. The applicant did not appeal that decision. The facility director issued the Notice of Decision on December 5, 1990, and sent it to the applicant's address of record via certified mail. The record contains a certified mail return receipt acknowledging delivery of the Service's notice. The appeal was not received until October 3, 1994. The appeal was untimely filed and, therefore, must be rejected.

ORDER: The appeal is rejected.