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U.S. Department of Homeland Security  
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Washington, D.C. 20529



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: SEP 21 2006  
XES 89 064 0130

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. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
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 appeal will be rejected. The AAO will return the matter for further action by the director.

The regulation at 8 C.F.R. § 292.4(a) provides, in pertinent part, that a notice of appearance entered in application proceedings must be signed by the applicant to authorize representation in order for the appearance to be recognized by Citizenship and Immigration Services.

At the time the Form I-694, Notice of Appeal was filed in 1992, the appeal was signed by counsel, Antonio G. Bueno, but the record contained no Form G-28, Entry of Appearance as Attorney or Representative. Accordingly, pursuant to 8 C.F.R. § 292.4(a), the AAO sought to clarify whether Antonio Bueno is authorized to represent the applicant in this proceeding. The AAO telephoned counsel's office and requested that a properly executed Form G-28 be faxed to this office. On August 7, 2006, the AAO received a Form G-28 signed by counsel via fax. However, the Form G-28 did not contain the applicant's signature. As there is nothing in the record that demonstrates that Antonio G. Bueno is the applicant's representative and therefore acting on behalf of a recognized party, counsel is not authorized to file an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). As the appeal was not properly file, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

The director denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the twelve-month eligibility period.

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 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 or is required to do some act within a 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 Denial on February 3, 1992. The appeal was not received until August 12, 1992. The appeal was untimely filed and, therefore, must be rejected.

It is noted that the applicant submitted a Form I-697A, Change of Address Card prior to the issuance of the director's Notice of Denial. It is not known if the director mailed the Notice of Denial to the applicant's new address of record as Citizenship and Immigration Services records still reflect the applicant's old address. The untimely filing of the appeal appears to be due to the director's error. Pursuant to 8 C.F.R. § 210.2(g), the director may *sua sponte* reopen any adverse decision. Additionally, the director may certify any such decision to the AAO. See 8 C.F.R. § 210.2(h).

**ORDER:** The appeal is rejected as untimely filed.