

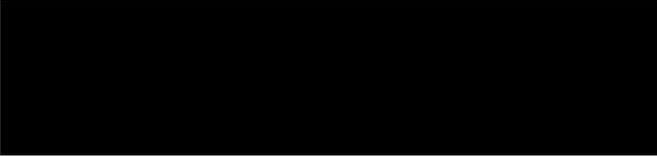
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U.S. Citizenship
and Immigration
Services

LL



FILE: [Redacted]
XID 88 041 1120

Office: California Service Center

Date: JUN 12 2007

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 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, reopened, and denied again by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to appear for his fingerprint appointment or request another opportunity to be fingerprinted.

An alien who, during the twelve-month period ending on May 1, 1986, has engaged in qualifying agricultural employment in the United States for at least 90 man-days is eligible for status as an alien lawfully admitted for temporary residence. 8 C.F.R. § 210.3(a), 8 U.S.C. § 1106(a)(1)(B)(ii).

An alien applying for adjustment of status under section 210 of the Act has the burden of proving by a preponderance of the evidence that he or she has worked the requisite number of man-days, is admissible to the United States under the provisions of section 210(c) of the Act, and is otherwise eligible for adjustment of status under this section. 8 C.F.R. § 210.3(b).

An applicant for temporary resident status as a special agricultural worker under section 210 of the Act must present proof of identity, evidence of qualifying employment, evidence of residence and such evidence of admissibility or eligibility as may be requested by the examining immigration officer. 8 C.F.R. § 210.3(c).

Each applicant, regardless of age, must appear at the appropriate Service legalization office and must be fingerprinted for the purpose of issuance of Form I-688A. 8 C.F.R. § 210.2(c)(iv).

On November 18, 2004, the applicant was sent a fingerprint appointment notice instructing him to report to the Citizenship and Immigration Services (CIS) application support center in Riverside, California, to be fingerprinted on December 2, 2004. The fingerprint appointment notice was mailed to the applicant's address of record at that time, [REDACTED]

[REDACTED] but the applicant failed to appear for his fingerprint appointment as scheduled or request another opportunity to be fingerprinted.

The record contains a letter from the applicant dated February 28, 2005, in which he stated that he was sorry he missed his scheduled fingerprint appointment on December 2, 2004. He explained that he was in the process of moving to a new address and all his mail was going to his old address at that time. The applicant stated that he didn't receive the fingerprint appointment notice until after fingerprint appointment date had already passed. The applicant's new address, [REDACTED] appeared on the accompanying mailing envelope, which was postmarked on March 14, 2005. There is no indication in the record that the applicant reported his change of address to CIS prior to the receipt of the letter dated February 28, 2005.

The director denied the application on June 2, 2006, because the applicant failed to appear for his fingerprint appointment or request another opportunity to be fingerprinted.

On appeal, the applicant states that he did not receive the fingerprint appointment notice until 70 days after it was mailed. The applicant asserts that CIS sent the fingerprint appointment notice and the denial decision to the wrong address, even though he had already reported his change of address to CIS three times.

The record of proceeding does not support the applicant's claim that the fingerprint appointment notice was sent to the wrong address even though he had already reported his change of address to CIS. There is no indication that the applicant reported a change of address to CIS until March 2005. As previously stated, the fingerprint notice was issued on November 18, 2004, and was sent to the applicant's address of record at that time, [REDACTED]

An alien applying for adjustment of status has the burden of proving by a preponderance of the evidence that he or she has worked the requisite number of man-days, is admissible to the United States under the provisions of section 210(c) of the Act, is otherwise eligible for adjustment of status under this section. 8 C.F.R. 210.3(b). Due to his failure to report for the mandatory fingerprinting, the applicant has not met this burden.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.