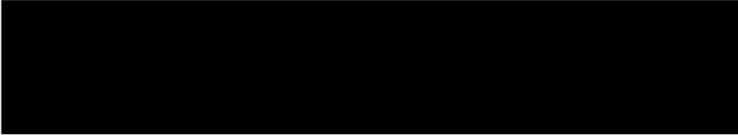


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MAR 01 2007

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

XYU 88 168 1033

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:



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 by the Director, California Service Center. The applicant appealed the decision before the Administrative Appeals Office (AAO). The matter was remanded back to the director for further action. The director has since complied with the AAO's instructions, bringing the appellate matter back before the AAO. The appeal will be dismissed.

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 eligibility period ending May 1, 1986. This determination was based on the applicant's failure to respond to adverse information regarding the applicant's claim of employment for [REDACTED] as cited in the notice of intent to deny.

On appeal, the applicant stated that she had not received a copy of the service's notices and stated that she needed to review a copy of her legalization file in order to compose an appellate brief. The record shows that the director provided the applicant with a copy of her file on March 31, 2005. That documentation was sent to the applicant's last known address of record. To date, however, nearly two years since the director complied with the applicant's request, the AAO has received no additional evidence or information in support of the appeal.

In order to be eligible for temporary resident status as a special agricultural worker, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, and must be otherwise admissible under section 210(c) of the Act and not ineligible under 8 C.F.R. § 210.3(d). 8 C.F.R. § 210.3(a). An applicant has the burden of proving the above by a preponderance of the evidence. 8 C.F.R. § 210.3(b).

Additionally, though not addressed in the director's decision, the record shows that on June 2, 1994 the applicant pled guilty and was convicted of aiding and abetting the unlawful U.S. entry of an illegal alien, a misdemeanor in violation of 8 U.S.C. § 1325 and 18 U.S.C. § 2(a).

Section 212(a)(C)(i) of the Act states that an alien who has committed visa fraud is excludable from entry into the United States. However, such excludability can be waived. *See* § 212(i) of the Act.

Section 245A(a)(4)(A) of the Act requires an alien to establish that he/she is admissible as an immigrant to the United States. However, the record does not contain evidence that the applicant filed and was approved for a waiver of excludability.

The regulation at 8 C.F.R. § 103.3(a)(3)(iv) states that any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. The applicant has failed to address the reasons stated for denial and has not provided any additional evidence on appeal. The appeal must therefore be summarily dismissed.

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