



U.S. Citizenship
and Immigration
Services

L1

DEC 02 2009



FILE:



XSD 89 020 2024

Office: CALIFORNIA SERVICE CENTER

Date:

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Western Service Center, and is now before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director denied the application for Group 2 Special Agricultural Worker status because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the 12-month period ending on May 1, 1986. This determination was based on adverse information provided to the applicant in a notice of intent to deny (NOID).

The applicant claimed employment with [REDACTED] and [REDACTED]. As evidence to support his claim, he submitted employment documentation signed by farm labor contractor [REDACTED]. [REDACTED] and [REDACTED] informed the Service in writing that [REDACTED] employment with them began after the qualifying period and that all employees were paid by check only. [REDACTED] informed the Service that his farm is not affiliated with perishable commodities in any capacity. The applicant also submitted documentation to establish he worked 10 man-days for Custom Agriculture Service. The director determined that the 10 man-days worked with Custom Agriculture Service for 10 man-days during the qualifying period alone, did not meet the 90 man-days required to qualify for the benefit sought. The applicant failed to respond to the NOID.

On appeal, the applicant requested a copy of the record of proceedings, and indicated that he would submit additional information following receipt of the record of proceedings. The Freedom of Information Act (FOIA) request was processed on June 9, 2009 (NRC2008031903). The applicant has not submitted any further documentation into the record or responded to the issues raised in the notice of decision.

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).

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. The record reflects that the director set forth a legitimate basis for denial of the application. 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.