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U. S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090

**U.S. Citizenship  
and Immigration  
Services**

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FILE:

XRV-88-144-01182

Office: CALIFORNIA SERVICE CENTER

Date: **MAR 25 2009**

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.

John F. Grissom  
Acting 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 on appeal. The appeal will be dismissed

The director initially denied the application because the applicant failed to appear for two scheduled interviews to establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. The applicant filed a notice to appeal the adverse decision. The director then *sua sponte* reopened the proceedings, and the applicant was scheduled for a third interview. The director has now denied the application because the applicant failed to appear for his third scheduled interview.

On appeal, the applicant asserts that he never received the interview notices. He contends that he has always notified the immigration service of his current address.<sup>1</sup> The applicant requests to be rescheduled for another interview.

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).

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. Each applicant shall be interviewed by an immigration officer, except that the interview may be waived when it is impractical because of the health of the applicant. 8 C.F.R. § 210.2(c)(2)(iv).

The applicant asserts, on appeal, that he did not receive the three interview notices. The AAO has reviewed the record of proceedings and found that the director correctly mailed the interview notices to the applicant at his last known address. For instance, on January 11, 1991, the director mailed the applicant a motion to reopen notice, via certified mail, to [REDACTED], Anaheim, California. The certified mail return receipt shows that the applicant received this notice at the above address. Five days later, on January 16, 1991, the director mailed the applicant an interview notice, for his third scheduled interview, to the same address.<sup>2</sup> However, the applicant failed to appear for this interview.

Based upon the foregoing, the AAO agrees with the basis of the director's denial. As stated previously, each applicant must appear at a legalization office to be interviewed by an immigration

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<sup>1</sup> The applicant furnished a copy of a change of address card he signed on June 3, 1991. Since this address change is almost five months after the director sent the third (final) interview notice, the document is not relevant to the issue at hand.

<sup>2</sup> The interview date was January 24, 1991.

officer unless such an interview would be impractical because of the applicant's health. The applicant in this case has not shown that an interview would be impractical. The applicant has been given three opportunities to appear for a legalization interview. The record reflects that the director mailed the interview notices to the applicant's last known addresses. The applicant failed to appear for each of these interviews. As such, the applicant has failed to comply with the application requirements for temporary resident status under section 210 of the Act. Therefore, the applicant's appeal must be dismissed.

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