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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS2090
Washington, DC 20529-2090



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

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **JAN 06 2010**

XFR 88 253 1151

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

[REDACTED]

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). The appeal will be dismissed.

The director denied the application, finding the applicant failed to establish that he was admissible to the United States and was otherwise eligible for adjustment of status under the provisions of Section 210 of the Immigration and Nationality Act.

On the Form I-700 application, the applicant claimed employment picking grapes for [REDACTED] in Fresno County, California from May 1, 1985 to May 1, 1986. The director issued a Notice of Intent to Deny (NOID), notifying the applicant that the Service was aware that the applicant had been charged and arrested for the following offenses: felony possession of cocaine 11350 California Health and Safety Code (H&S), misdemeanor possession of narcotic paraphernalia H&S 11364; and misdemeanor using or being under the influence of a controlled substance H&S 11550. The director asked the applicant to submit final court dispositions for the charges or other information to establish that the charges were dismissed or that the record is in error. The director also asked the applicant to submit Form DL-414 or an H-6 printed record from the California Department of Motor Vehicles. The applicant failed to respond to the NOID. The director denied the application and sent the notice of denial to the applicant at his address of record. The record indicates that the applicant signed a return receipt for the notice of decision.

On appeal, the applicant stated he was unable to specify the reasons for the appeal because he had not received a notice of denial. He indicated that he would supplement his appeal after receipt of a copy of the record of proceedings. The request for a copy of the record of proceedings was processed on December 2, 2008 (NRC 2008070089). 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-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.