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U.S. Department of Homeland Security
20 Mass. Avenue, N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: AUG 04 2006

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. The file has been returned to the service center that processed 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, Western Service Center. The matter was remanded by the Administrative Appeals Office (AAO), and denied again by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further consideration and action.

The Director, California Service Center, finally denied the application because the applicant failed to appear for fingerprinting.¹ The director claims that the applicant was sent a notice advising him to appear at the U.S. Citizenship and Immigration Services (USCIS) office in Phoenix, Arizona during the 87 day period beginning October 21, 2004 to be fingerprinted and have his fingerprints examined for eligibility. However, the record does not contain a copy of that notice. It cannot be determined that the notice was ever sent, much less to the applicant's most current address of record. Therefore, the applicant may not have been apprised as to his responsibilities regarding fingerprinting. The subsequent denial notice was not sent to the applicant's most current address of record. Therefore, the director's denial of the application, based on the applicant's failure to report for fingerprinting, is withdrawn.

The case is remanded for the purpose of sending the applicant a new Fingerprint Notification and affording him the opportunity to comply with its requirements. The applicant's most current address of record is [REDACTED]. Thereafter, the director will render a new decision. Should the decision be adverse, the director must give written notice setting forth the specific reasons for the denial, and certify the decision to this office.

ORDER: The case is remanded for appropriate action and decision consistent with the foregoing.

¹ 8 C.F.R. § 103.2(a)(3) specifies that an applicant may be represented "by an attorney in the United States, as defined in § 292.1(a)(6) of this chapter, or by an accredited representative as defined in § 292.1(a)(4) of this chapter." The term attorney means any person who is a member in good standing of the bar of the highest court of any state and is not under any order of any court suspending, enjoining, restraining, disbaring, or otherwise restricting him in the practice of law. 8 C.F.R. § 1.1(f). In this case, the person listed on the G-28 is deceased. Therefore, the AAO may not recognize counsel in this proceeding.