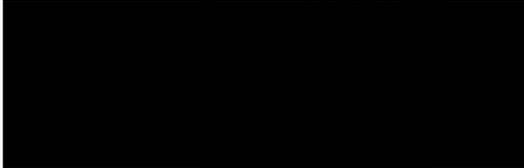




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy

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FILE: [Redacted]
XTO 89 027 02014

Office: CALIFORNIA SERVICE CENTER

Date: APR 11 2007

IN RE: Applicant: [Redacted]

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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

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 twelve-month eligibility period. This decision was based on adverse information regarding the applicant's claim of employment for Robert Martinez.

Whenever an application for special agricultural worker status is denied or the status of a lawful temporary resident is terminated, the alien shall be given written notice setting forth the specific reasons for the denial on Form I-692, Notice of Denial. Form I-692 shall also contain advice to the applicant that he or she may appeal the decision and that such appeal must be taken within 30 days following service of the notification of decision. 8 C.F.R. § 103.3(a)(3)(i). An appeal received after the thirty (30) day period has tolled will not be accepted for processing. 8 C.F.R. § 103.3(a)(3)(iv). Form I-694, Notice of Appeal, shall be used to file the appeal and must be accompanied by the appropriate fee. 8 C.F.R. § 103.3(a)(3)(ii). Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The director issued the Notice of Denial on November 22, 1991 and sent it to the applicant at his address of record. The notice was returned by the post office as undeliverable. The applicant did not provide a new address until May 1992. Therefore, the applicant's failure to receive the Notice of Decision was of his own making. The Western Service Center received the appeal on July 24, 1992, over seven months after the decision was issued. The appeal was untimely filed and, therefore, must be rejected.

Furthermore, the record reflects that Jaime [REDACTED] an immigration consultant, filed the Form I-694, on behalf of the applicant.

The regulation at 8 C.F.R. § 103.3(a)(2)(v) states:

Improperly filed appeal – (A) Appeal filed by person or entity not entitled to file it – (1) Rejection without refund of filing fee. An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

The regulation does not permit "immigration consultants" to appear as representatives before Citizenship and Immigration Services. 8 C.F.R. § 292.2. Only an affected party, a person or entity with legal standing may file an appeal of an unfavorable decision.

As the appeal was untimely and improperly filed, the appeal must be rejected.

ORDER: The appeal is rejected as untimely filed.