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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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APR 30 2007

FILE:

XBO 88 221 00013

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. 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, Northern Regional Processing Facility. The matter was remanded by the Legalization Appeals Office, now the Administrative Appeals Office (AAO), and denied again by the Director, California Service Center. The matter is now before the AAO on appeal. The appeal will be dismissed.

The Director, California Service Center denied the application because the applicant failed to appear for fingerprinting.

As of March 29, 1998, applicants for Temporary Resident Status as a Special Agricultural Worker (SAW) are required to be fingerprinted at a Citizenship and Immigration Services (CIS) Application Support Center or approved Designated Law Enforcement Agency.

On November 3, 1994, the case was remanded for the purpose of a new decision. On December 20, 2005, a notice was sent to the applicant at his address of record, advising him to appear at the CIS office in San Marcos, California on January 3, 2006, to be fingerprinted. The notice was returned by the post office as undeliverable. On July 25, 2006, the director denied the application because the applicant failed to appear for the required fingerprinting. This notice was also returned by the post office as undeliverable. CIS records reflect that at the time the applicant filed his Form I-765, Application for Employment Authorization, on October 29, 2006, he still maintained the same address of record.

Declarations by an applicant that he or she has not had a criminal record are subject to verification of facts by CIS. The applicant must agree to fully cooperate in the verification process. 8 C.F.R. § 210.3(b)(3) states all evidence regarding admissibility and eligibility submitted by an applicant for adjustment of status will be subject to verification by the Service. Failure by an applicant to release information may result in the denial of the benefit sought. Additionally, 8 C.F.R. § 210.3(c) states in part: "A complete application for adjustment of status must be accompanied by proof of identity, evidence of qualifying employment, evidence of residence, and such evidence of admissibility or eligibility as may be required by the examining immigration officer in accordance with such requirements specified in this part."

The applicant failed to appear as required for fingerprinting. Consequently, the applicant has not met the required burden of proof establishing admissibility or eligibility for temporary resident status as a SAW.

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