

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



LI

MAR 07 2007

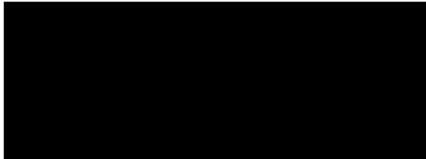
FILE: [REDACTED]
XSF 88 507 01081

Office: CALIFORNIA SERVICE CENTER Date:

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:



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. The matter was remanded by the Legalization Appeals Unit 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 matter will be remanded once again for further consideration and action.

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

On October 7, 1999, the case was remanded for the introduction of any additional adverse evidence. A notice dated September 10, 2004 was sent to the applicant at his address of record, advising him to appear at the CIS office in Santa Rosa, California on September 24, 2004, to be fingerprinted.

In denying the application, the director noted that the applicant failed to appear, and the record contained no evidence that a request to reschedule was received by CIS. Counsel, in response, asserted that the notice advising the applicant to appear before a CIS office on September 24, 2004 was not served upon him.

The regulation at 8 C.F.R. § 292.5(a) requires, in pertinent part, that whenever a person is required by any of the provisions of this chapter to give or be given notice; or to perform any act, such notice or performance shall be served upon the attorney or representative of record.

In the instant case, the record does not reflect that counsel was served with a copy of the Fingerprint Notification dated September 10, 2004. Therefore, the director's denial of the application will be withdrawn.

The case is remanded for the purpose of sending the applicant *and* counsel a new Fingerprint Notification form, and affording the applicant the opportunity to comply with its requirements. 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 pursuant to 8 C.F.R. § 103.3(a)(1)(i), and the applicant shall be permitted to file an appeal without a fee. Additionally, the director may certify the decision to this office.

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