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U.S. Citizenship
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Services

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FILE:

[REDACTED]
XDT 88 131 02012

Office: TEXAS SERVICE CENTER Date:

MAY 01 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 termination of temporary resident status by the Director, Northern Service Center, is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director terminated the temporary resident status of the applicant upon finding that the adjustment to temporary resident status was the result of fraud or willful misrepresentation as set forth in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(6)(C)(i), formerly section 212(a)(19) of the Act. This determination was based on adverse evidence regarding the applicant's claimed employment for

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 Termination on April 20, 1992 to the applicant at his address of record. The notice was returned by the post office as undeliverable. The record contains no evidence of a change of address prior to the issuance of the director's decision. Therefore, the applicant's failure to receive the Notice of Termination was of his own making. The Northern Service Center received the appeal on February 24, 1993, over 10 months after the decision was issued. The appeal was untimely filed and, therefore, must be rejected.

ORDER: The appeal is rejected as untimely filed.