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U.S. Citizenship
and Immigration
Services

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FILE:



XDE 88 206 04015

Office: NEBRASKA SERVICE CENTER

Date: MAY 03 2007

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 Unit, now the Administrative Appeals Office (AAO), and denied again by the Director, Nebraska Service Center. The matter is now before the AAO on appeal. The appeal will be dismissed.

The Director, Nebraska Service Center denied the application because the applicant failed to appear for fingerprinting. The applicant has not addressed the director's decision or provided any evidence to overcome the director's findings.

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 December 9, 1993, the case was remanded for the introduction of any additional adverse evidence. On October 24, 2006, a notice was sent to the applicant at his address of record, advising him to appear at the CIS office in Aurora, Colorado on May 26, 2005, to be fingerprinted. The applicant failed to appear, and the record contains no evidence that a request to reschedule was received by CIS. On August 15, 2006, the director denied the application because the applicant failed to appear for the required fingerprinting.

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.

Finally, according to the record, on October 11, 2000, the applicant was convicted of distributing a controlled substance – cocaine. The applicant was deported to his native country, Mexico, on October 2, 2003. Because the record does not contain the actual court disposition, the AAO cannot find the applicant ineligible and inadmissible due to his criminality.

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