



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

ADMINISTRATIVE APPEALS OFFICE
20 MASS., AVE. N.W., RM. 3000
WASHINGTON, DC 20529



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FILE: [REDACTED]
XOX 87 084 02011

Office: LOS ANGELES

Date: MAY 22 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the District Director, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected. The AAO will return the matter for further action by the director.

The district 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 the applicant claimed to have met the eligibility criteria under an assumed name and failed to submit the required proof of common identity and his verbal testimony.

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 regulation at 8 C.F.R. § 103.2(a)(1) provides, in part, that [e]very application, petition, appeal, motion, request ... shall be executed and filed in accordance with the instructions on the form, such instructions ... being hereby incorporated into the particular section of the regulations in this chapter requiring its submission.” An applicant must sign his or her application. 8 C.F.R. § 103.2(a)(2).

The director issued the Notice of Denial on September 25, 2006. The appeal was initially received on October 30, 2006; however, it was rejected because the Form I-694 was not signed by the applicant. The appeal was properly received on November 10, 2006, 46 days after the decision was issued. The appeal was untimely filed and, therefore, must be rejected.

It is noted that the record reflects evidence to establish the applicant’s alias at the time of his employment during the twelve-month eligibility period ending May 1, 1986, was provided in response to a Request for Additional Evidence on January 26, 1988. Pursuant to 8 C.F.R. § 210.2(g), the director may *sua sponte* reopen any adverse decision. Additionally, the director may certify any such decision to the AAO. *See* 8 C.F.R. § 210.2(h).

ORDER: The appeal is rejected as untimely filed.