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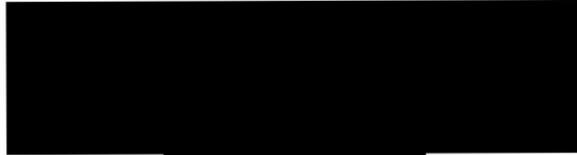


U.S. Citizenship
and Immigration
Services

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FILE:

XFR 88 242 2058

Office: CALIFORNIA SERVICE CENTER

Date: JAN 28 2009

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. You no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case. If your appeal was sustained or remanded for further action, you will be contacted.


John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status was denied by the Director, California Service Center. The applicant appealed the denial to the Administrative Appeals Office (AAO). The appeal will be dismissed.

The application was initially denied because the applicant failed to demonstrate that he had performed at least 90 man-days of qualifying agricultural employment during the 12-month period ending May 1, 1986. The director denied the application, and the applicant appealed. The AAO remanded upon the request of the director. On remand, the director fulfilled the applicant's request for information under the Freedom of Information Act (FOIA), and returned the record to the AAO for resolution of the appeal. The AAO remanded for the director to include derogatory information into the record. On remand, the director denied the application because the applicant failed to appear to submit fingerprints. The applicant filed a motion to reopen with fee, which was denied by the director, and the director reopened on his own motion to allow the applicant to submit fingerprints. The director notified the applicant of unresolved criminal arrests, and gave the applicant the opportunity to submit court documents disposing of the charges. The applicant did not submit the evidence requested, the director denied the application and returned the record to the AAO for adjudication of the appeal.

In order to qualify for benefits as a special agricultural worker, the applicant must establish by a preponderance of the evidence that he is admissible to the United States as an immigrant. Section 212(a)(2) of the Act, 8 U.S.C. § 212(a)(2). An applicant is ineligible for temporary residence if he or she has been convicted of any felony or three or more misdemeanors in the United States. 8 C.F.R. § 210.3(d)(3).

The applicant was arrested by the Porterville Police Department on April 22, 1990 and charged with *False Identification to Specific Police Officers* (case no. [REDACTED])

The applicant was arrested by the Winnemucca Sheriff's Office on August 19, 1991 and charged with *Burglary – Residential* (case no. [REDACTED])

The applicant was arrested by the Coalinga Police Department on June 11, 2000 and charged with *Driving Under Influence Alcohol/Drugs, resulting in Bodily Injury; Driving Under Influence Alcohol/.08%, Bodily Injury; Driving with suspended License; False Proof, Financial Responsibility* (case no. [REDACTED])

The director notified the applicant of these arrests and requested the applicant to submit evidence of the court dispositions. Because the applicant has failed to submit the requested evidence, he has not established that he is eligible for temporary residence. The Act provides that the alien may not adjust status to permanent residence, or that USCIS may terminate the temporary residence of any alien who is inadmissible to the United States or has been convicted of any felony or of three or more misdemeanors committed in the United States. See, Section 210(a)(3)(B)(ii) of the Act, 8 U.S.C. § 1160(a)(3)(B)(ii); Section 210(a)(1)(C) of the Act, 8 U.S.C. § 1160(a)(1)(C). The applicant has failed to establish by a preponderance of the evidence that he is admissible to the

United States as an immigrant or that he is eligible for legalization as a special agricultural worker. Section 212(a)(2) of the Act, 8 U.S.C. § 212(a)(2); 8 C.F.R. § 210.3(d)(3).

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