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U.S. Citizenship  
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JUN 15 2009

XFR-89-010-02103

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 as a Special Agricultural Worker was denied by the Director, California Service Center. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The Director, Western Service Center (now the California Service Center), initially denied the application on August 12, 1991 because the applicant failed to establish that he engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986. The applicant appealed the decision to the Legalization Appeals Unit (now the Administrative Appeals Office or AAO) and requested a copy of his record of proceedings. The LAU remanded the matter to the Western Service Center for the purpose of sending the applicant a copy of his file and reopening his case for entry of a new decision. On March 17, 1993, the Western Service Center mailed the applicant a copy of his file and afforded him 30 days to submit evidence in support of his application. The record reflects that the applicant failed to submit any additional evidence or otherwise respond to the notice.

On June 30, 2008, the Director, California Service Center, issued a new decision to deny the application. The director determined that the applicant failed to submit court dispositions related to his arrests for: *Transporting Illegal Aliens* (El Centro USINS Border Patrol, May 26, 1989); *Operating While Intoxicated* (Sioux City Police Department, June 12, 1994); *Possession of Marijuana* and *Possession of Drug Paraphernalia* (Huron Police Department, March 13, 1997); *Driving Under the Influence* (Sioux Falls Sheriff's Office, March 11, 2001); and *Possession of a Controlled Substance and Maintaining a Place Where Drugs are Used or Sold* (Sioux Falls Police Department, January 4, 2006).<sup>1</sup> The director concluded that the applicant failed to establish his admissibility to the United States and eligibility for temporary resident status, and denied the application.

On appeal, the applicant asserted that he is eligible for temporary resident status and the denial of his case was erroneous. The applicant indicated that he will issue a full statement through a representative after reviewing his file. The applicant received a copy of his file on March 17, 1993. As of the date of this decision he has not furnished a brief or any additional evidence.

In order to be eligible for temporary resident status as a special agricultural worker, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, and must be otherwise admissible under section 210(c) of the Act and not ineligible under 8 C.F.R. § 210.3(d).<sup>2</sup> 8 C.F.R. § 210.3(a). An

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<sup>1</sup> The AAO notes that in addition to these offenses, a Federal Bureau of Investigation (FBI) report based upon the applicant's fingerprints reveals that he was arrested on April 1, 2008 by the Drug Enforcement Agency in Sioux Falls, South Dakota and charged with *Selling Amphetamine* and *Selling Synthetic Narcotics*.

<sup>2</sup> An alien who has been convicted of a felony or three or more misdemeanors in the United States is ineligible for temporary resident status. 8 C.F.R. § 210.3(d)(3).

applicant has the burden of proving the above by a preponderance of the evidence. 8 C.F.R. § 210.3(b).

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not addressed the grounds stated for denial, nor has he presented additional evidence. The appeal must therefore be summarily dismissed.

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