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U.S. Citizenship
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Services

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FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: **MAR 24 2009**
XSO 89 060 02008

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.

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

The Director, California 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 U.S. Citizenship and Immigration Services (USCIS) Application Support Center or approved Designated Law Enforcement Agency.

On December 11, 2000, the case was remanded for the introduction of any additional adverse evidence. On October 13, 2004, a notice was sent to the applicant at his address of record, advising him to appear at the USCIS office in San Jose, California on November 6, 2004, to be fingerprinted. The notice was returned by the post office as undeliverable. On December 10, 2004, 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 USCIS. 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, the record contains court dispositions which reveal the following:

- On June 9, 2002, the applicant was arrested in Los Angeles County, California for violating section 243(e)(1) PC, battery against former spouse/fiancé and section 591 PC, injure a telephone/power line, both misdemeanors. On June 11, 2002, the applicant was convicted of violating section 243(e)(1) PC, sentenced to serve 15 days in jail, ordered to pay a fine, enroll in a domestic violence counseling program and placed on summary probation for three years. The remaining offense was dismissed. On March 4, 2003, probation was revoked and a bench warrant was issued. On June 14, 2004, probation was reinstated and the applicant was ordered to serve 45 days in jail and enrolled in a

domestic violence program. On July 23, 2004, probation was again revoked and a bench warrant was issued. On December 6, 2004, probation was reinstated and the applicant was ordered to serve 173 days in jail. Case no. [REDACTED]

- On June 5, 2004, the applicant was arrested in Santa Clara County, California for violating section 148.9 PC, giving a false name to a peace officer. On June 9, 2004, the applicant was convicted of this misdemeanor offense, ordered to pay a fine and sentenced to serve four days in jail. Case no. [REDACTED]

While these convictions do not render the applicant ineligible pursuant to 8 C.F.R. § 210.3(d)(3), the AAO notes that the applicant does have two misdemeanor convictions.

The record also reflects that a removal hearing was held on January 19, 2005, and the applicant was ordered removed from the United States.

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