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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



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FILE: [REDACTED] Office: SAN FRANCISCO
XWS 87 043 0017
MSC 07 212 16261-APPEAL

Date: NOV 27 2009

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:



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.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, San Francisco, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

In a decision dated March 30, 2007, the director denied the application for Group 2 status because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the 12-month period ending on May 1, 1986. This determination was based on inconsistent testimony provided by the applicant when he was interviewed on October 30, 2006 before an Immigration officer. Specifically, the applicant testified that he picked beans for 1 ½ months and never worked in the fields after that one period. This contradicted the previous evidence that he provided in an affidavit dated June 29, 1987 from [REDACTED] a farm labor contractor, which reflected the applicant worked 206 man-days as a farm worker from January 1985 to May 1986.

On appeal, the applicant acknowledges that his testimony and the information that he provided with his application are probably different. He states that some kind of labor contractor filled out his form for him and that he signed but didn't read it before submission. He further states that he worked for 1 ½ months picking beans in Florida in 1982 before he began working for restaurants in 1983.

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). 8 C.F.R. § 210.3(a). An 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 which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. The record reflects that the director set forth a legitimate basis for denial of the application. The applicant has not provided any additional evidence on appeal. The appeal shall therefore be summarily dismissed.

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