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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS2090  
Washington, DC 20529-2090



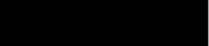
**U.S. Citizenship  
and Immigration  
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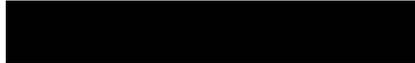
Office: LOS ANGELES

Date: **JAN 08 2010**

XSA 88 526 4088

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.

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status as a special agricultural worker was denied by the Director, Los Angeles, and is now before the Administrative Appeals Office (AAO). The appeal will be dismissed.

In a decision dated June 3, 1991, the director denied the application for Group 2 special agricultural worker 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 adverse information regarding the applicant's claim of employment for [REDACTED]. The applicant appealed and the AAO remanded. On remand, the director gave the applicant the opportunity to submit evidence that he was eligible for the benefit sought. 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.

The record reflects that the application was denied by the director on June 3, 1991 and the applicant filed a timely appeal on June 27, 1991. On appeal, the applicant indicated that he did not receive the Notice of Intent to Deny (NOID) issued on April 3, 1991 and that, upon receipt, he would respond to the issues raised by the director in the NOID. United States Citizenship and Immigration Services (USCIS) issued a second NOID on May 5, 2008 sent to the applicant's address of record. The director indicated in the NOID that the application contained inconsistent information with respect to the applicant's employment for [REDACTED]. The applicant failed to respond to the second NOID and the application was denied again on June 25, 2008.

The director noted that on the Form I-700 application, the applicant claimed to have worked 94 man-days picking citrus fruits for farm labor contractor [REDACTED] in Kern County, California from August 1985 to March 1986.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment statement, purportedly signed by [REDACTED].

However, as noted by the director, the payroll secretary of [REDACTED] parent company of [REDACTED], stated that [REDACTED] contract expired in January 1986. The director also noted that the purported signature of [REDACTED] on the employment documents did not appear to resemble his authentic signature, seemingly casting further doubt on the credibility of the affidavits.

On appeal, the applicant indicates that he did not receive the original NOID and that he would respond upon receipt of the NOID. No response has been received by USCIS to either NOID and the applicant has not responded to the issues noted by the director.

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).

It is further noted by AAO that on November 22, 1991, the applicant pled guilty to violating 18 USC §2 and 8 USC §1325 *Aiding and Abetting Illegal Entry*, a misdemeanor. These convictions render the applicant ineligible for temporary resident status because it is a basis of inadmissibility. Section 212(a)(6)(E)(i), 8 U.S.C. § 1182(a)(6)(i). It is waivable, but as the applicant has not otherwise established his eligibility, the issue is moot.

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 applicant has failed to address the reasons stated for denial and has not provided any additional evidence on appeal. The appeal must therefore be summarily dismissed.

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