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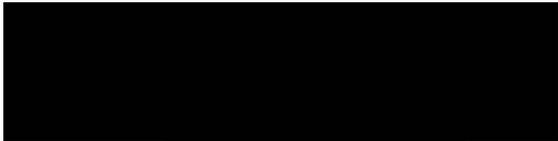
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

L1



FILE:

XMI-88-169-4019

Office: TEXAS SERVICE CENTER

Date:

JAN 25 2010

IN RE:

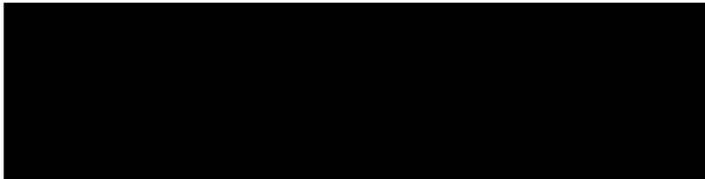
Applicant:



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:



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, Southern Service Center, and is now before the Administrative Appeals Office (AAO). The appeal will be rejected.

The director denied the application on April 2, 1991 noting that the applicant failed to appear for three scheduled interviews. Specifically, the director noted that the applicant was scheduled for an interview with United States Citizenship and Immigration Services (USCIS) on October 18, 1988; April 1, 1989 and May 18, 1989. Each interview notice was sent to the applicant's address of record. The third notice was returned to USCIS as undeliverable. The director found that the applicant failed to provide an explanation for his absence or a request for a reschedule of the interview. The director denied the application as abandoned because the applicant failed to appear for his interview.

In an appeal filed July 14, 1995, the applicant indicates that immediately upon filing his application, he returned to Mexico for several years to care for sick family members.

If an applicant fails to appear for an interview, the application shall be considered abandoned and denied unless by the appointment time Citizenship and Immigration Services (CIS) has received a change of address or rescheduling request that the agency concludes warrants excusing the failure to appear. 8 C.F.R. § 103.2(b)(13)(ii). A denial due to abandonment may not be appealed to the AAO. 8 C.F.R. § 103.2(b)(15). Additionally, an applicant for temporary resident status is not entitled to file a motion to reopen a proceeding. 8 C.F.R. § 245a.2(q).

In this case, the applicant indicates that he left the United States for several years following the filing of his application. Thus the director's decision to deny the application as abandoned was correct. Since the application was denied as abandoned, it may not be appealed to the AAO. 8 C.F.R. § 103.2(b)(15). The appeal, therefore, must be rejected.

ORDER: The appeal is rejected.