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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090
**U.S. Citizenship
and Immigration
Services**

Date: **FEB 07 2013** Office: CALIFORNIA SERVICE CENTER

FILE:

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.

for Ron Rosenberg
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, and appealed to the Administrative Appeals Office (AAO). The AAO remanded the matter to permit the director to process the applicant's request for a copy of the record of proceedings. The request was processed on December 11, 2012.

The director of the California Service Center denied the application and certified his decision to the AAO. The director's decision will be affirmed. The application will be denied.

The director initially denied the application, finding the applicant had 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.

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). Here, the applicant failed to meet his burden of proof.

Subsequently, the director determined that there was another basis for denying the application. The record contains court documents showing that the applicant was convicted of a felony on March 30, 2009, kidnapping in the Superior Court of [REDACTED] Docket [REDACTED]. An applicant is ineligible for temporary residence if he or she has been convicted of any felony or three or more misdemeanors in the United States. 8 C.F.R. § 210.3(d)(3).

The director's decision will be affirmed. The application will be denied.

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