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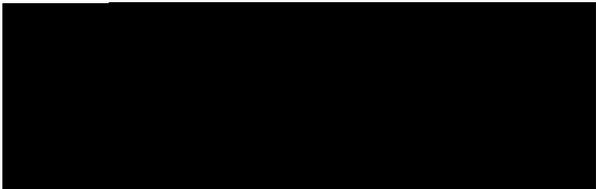
U.S. Department of Homeland Security  
20 Mass. Avenue, N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:

[Redacted]  
XAU 89 040 1116

Office: CALIFORNIA SERVICE CENTER

Date:

SEP 01 2006

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. The file has been returned to the service center that processed your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, 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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status as a special agricultural worker was denied by the Director, Southern Service Center for Group 1 eligibility and approved by the director for Group 2 eligibility. The matter is now before the Administrative Appeals Office (AAO) on appeal from the Group 1 denial. The appeal will be rejected.<sup>1</sup> The AAO will return the matter for further action by the director.

Whenever an application for special agricultural worker status is denied or the status of a lawful temporary resident is terminated, the alien shall be given written notice setting forth the specific reasons for the denial on Form I-692, Notice of Denial. Form I-692 shall also contain advice to the applicant that he or she may appeal the decision and that such appeal must be taken within **30 days** following the service of the notification of decision. 8 C.F.R. § 103.3(a)(3)(i). An appeal received after the thirty (30) day period has tolled will not be accepted for processing. 8 C.F.R. § 103.3(a)(3)(iv). Form I-694, Notice of Appeal, shall be used to file the appeal and must be accompanied by the appropriate fee. 8 C.F.R. § 103.3(a)(3)(ii). Whenever a person has the right to or is required to do some act within the prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The director issued the Notice of Decision on August 27, 1992, and sent it to the applicant's address of record via certified mail. The appeal was not received until May 19, 1994. The appeal was untimely filed and, therefore, must be rejected.

Although the application for temporary residence under section 210(a)(1) of the Immigration and Nationality Act was denied by the director for Group 1 eligibility, the applicant was granted temporary resident status by the director based on his Group 2 eligibility. However, the record indicates that the applicant was never issued a temporary resident card, only employment authorization. The record also indicates that, on October 20, 1992, the applicant's Form I-90, Application by Lawful Permanent Resident for New Alien Registration Receipt Card, was returned to him and he was incorrectly informed on the form letter that his I-700 application had not been approved. The decision dated August 27, 1992, clearly grants the applicant temporary resident status. The director shall advise the applicant as to where to file a new Form I-90. Such form should be filed with a copy of this notice.

**ORDER:** The appeal is rejected.

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<sup>1</sup> 8 C.F.R. § 103.2(a)(3) specifies that an applicant may be represented "by an attorney in the United States, as defined in § 292.1(a)(6) of this chapter, or by an accredited representative as defined in § 292.1(a)(4) of this chapter." The term attorney means any person who is a member in good standing of the bar of the highest court of any state and is not under any order of any court suspending, enjoining, restraining, disbaring, or otherwise restricting him in the practice of law. 8 C.F.R. § 1.1(f). In this case, the persons listed on the G-28's are no longer active members of the Arizona State bar. Therefore, the AAO may not recognize either counsel in this proceeding.