



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

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF L-R-R-

DATE: DEC. 22, 2015

APPEAL OF NEBRASKA SERVICE CENTER DECISION

APPLICATION: FORM I-700, APPLICATION FOR TEMPORARY RESIDENT STATUS
AS A SPECIAL AGRICULTURAL WORKER

The Applicant, a native and citizen of Mexico, seeks status as a temporary resident. *See* Immigration and Nationality Act (the Act) § 210, 8 U.S.C. § 1160. The Director, Nebraska Service Center,¹ denied the application. The matter is now before us on appeal. The appeal will be rejected. We will return the matter to the Director to consider whether it warrants reopening *sua sponte*.

The Director denied the application because the Applicant did not establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period.

Whenever an application for special agricultural worker status is denied or the status of a lawful temporary resident is terminated, the applicant must be given written notice setting forth the specific reasons for the denial. The denial must 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 service of the notification of decision. 8 C.F.R. § 103.3(a)(3)(i). An appeal received after the 30 day period has tolled will not be accepted for processing. 8 C.F.R. § 103.3(a)(3)(iv)(C). If the decision is mailed, the 30-day period for submitting an appeal begins 3 days after it is mailed. 8 C.F.R. § 103.8(b).

The record reflects that the Director sent the notice of denial on January 22, 1991, to the Applicant at the Applicant's address of record. The Director stated that the Applicant had 30 days to file an appeal. Neither the Act nor the pertinent regulations grant us authority to extend the time limit for filing an appeal. The appeal was not received by the Director until August 24, 1992, over a year after the decision was issued. Therefore, the appeal was untimely filed and must be rejected.

The record reflects that although the appeal was received by the Director on August 24, 1992, no action was taken on appeal until it was forwarded to us on October 19, 2015, more than 23 years after the appeal was filed.

¹ Formerly the Northern Regional Processing Facility.

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8 C.F.R. § 210.2(g) provides, in pertinent part:

Motions. In accordance with the provisions of § 103.5(b) of this chapter, the director of a regional processing facility or a consular officer at an overseas processing office may *sua sponte* reopen any proceeding under this part under his or her jurisdiction and reverse any adverse decision in such proceeding when appeal is taken under § 103.3(a)(2) of this part from such adverse decision

In addition, 8 C.F.R. § 103.5(b) provides, in pertinent part:

Motions to reopen or reconsider denials of special agricultural worker and legalization applications. Upon the filing of an appeal to the Associate Commissioner, Examinations (Administrative Appeals Unit), the Director of a Regional Processing Facility or the consular officer at an Overseas Processing Office may *sua sponte* reopen any proceeding under his or her jurisdiction opened under Part 210 or 245a of this chapter and may reconsider any decision rendered in such proceeding.

Accordingly, the matter therefore will be returned to the Director for review and consideration of whether it warrants reopening *sua sponte*. If the Director determines that the late appeal meets the requirements of a motion, a new decision will be issued.

As the appeal was untimely filed, the appeal must be rejected.

ORDER: The appeal is rejected.

Cite as *Matter of L-R-R-*, ID# 16441 (AAO Dec. 22, 2015)