



U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **JUL 14 2015**

FILE: [REDACTED]
APPLICATION RECEIPT: [REDACTED]

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:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case. This decision is final as you are not entitled to file a motion to reopen or reconsider your case.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Western (now California) Service Center Director denied the application for temporary resident status as a special agricultural worker. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application for lack of prosecution, finding that the applicant failed to appear two scheduled interviews.

On appeal, the applicant asserts that he never received the interview notices.¹

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).

Each applicant, regardless of age, must appear at the appropriate Service legalization office and must be fingerprinted for the purpose of issuance of Form I-688A. Each applicant shall be interviewed by an immigration officer, except that the interview may be waived when it is impractical because of the health of the applicant. 8 C.F.R. § 210.2(c)(2)(iv).

The applicant asserts, on appeal, that he did not receive the two interview notices. On November 30, 1988, the director mailed to the applicant a notice to appear for an interview on January 30, 1989, to [REDACTED] California, the applicant's address of record. The director subsequently mailed the applicant another interview notice, for his second scheduled interview, to the same address.² However, the applicant failed to appear for either interview.

As stated previously, each applicant must appear at a legalization office to be interviewed by an immigration officer unless such an interview would be impractical because of the applicant's health. The applicant in this case has not shown that an interview would be impractical. The applicant has been given two opportunities to appear for a legalization interview. The record reflects that the director mailed the interview notices to the applicant's last known address. The applicant failed to appear for each of these interviews. As such, the applicant has failed to comply with the application requirements for temporary resident status under section 210 of the Act. Therefore, the applicant's appeal must be dismissed.

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

¹ The applicant indicated on the Notice of Appeal that he changed his address. Since this address change is over three years after the director sent the second (final) interview notice, the document is not relevant to the issue at hand.

² The interview date was March 13, 1989.