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U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF E-M-

DATE: JAN. 7, 2016

APPEAL OF CALIFORNIA 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, California Service Center[1], denied the application. The matter is now before us on appeal. The appeal will be summarily dismissed.

The Director denied the Form I-700, Application for Temporary Resident Status as a Special Agricultural Worker, because the Applicant did not establish that he performed at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on adverse information the Director obtained relating to the Applicant's claim of qualifying agricultural employment.

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 Director issued an undated denial notice and mailed it to the Applicant's address of record by certified mail. The Director advised the Applicant that he had 30 days to file an appeal. The record contains a certified mail return receipt signed on August 23, 1991, by one acknowledging receipt of the Director's denial notice. The appeal was not received until August 27, 2013, more than 21 years after the decision was issued. The Applicant provides no explanation for the late filing. However, a review of the record indicates that the Applicant may not have been aware for some time that his Form I-700 had been denied. First, the record shows that another individual acknowledged receipt of the Applicant's Form I-700 denial. Second, on September 11, 1991, almost a month after the denial had been issued, the Applicant requested an extension of time

[1] Formerly Western Service Center.

to respond to the Director's notice of intent to deny, issued on April 24, 1991. For these reasons we will treat the Applicant's appeal as timely filed.

An applicant for temporary resident status under section 210 of the Act must establish that he or she performed seasonal agricultural services in the United States for at least 90 man-days during the 12-month period ending on May 1, 1986. To prove his employment during the qualifying time period, the Applicant submitted Form I-705, Affidavit Confirming Seasonal Agricultural Employment of an Applicant for Temporary Resident Status under Section 210 of the Immigration and Nationality Act, signed by the Applicant and attesting to the Applicant's employment with for a period of 119 days between May 1, 1985, and May 1, 1986.

On April 24, 1991, the Director notified the Applicant of the intent to deny his Form I-700. The Director informed the Applicant that in a signed declaration in the U.S. District Court for the Eastern District of California, identified the Applicant as one of the individuals whose employment she verified without having personal knowledge of their qualifications for the special agricultural program. In addition, she declared that the employment verification documents she provided to those individuals, including the Applicant, may have contained false, fictitious, or fraudulent statements. The Director allowed the Applicant 30 days to present evidence that would overcome this derogatory information. On May 23, 1991, the Applicant requested an additional 60 days to respond, stating that he would "go to the farm" where he worked to obtain documentation confirming his employment. The request was granted. On July 23, 1991, the Applicant again requested an additional 60 days to obtain evidence of his qualifying employment. However, on August 21, 1991, the Director denied the application.[2] As stated above, it does not appear that the Applicant received the denial notice when it was originally mailed to him. On September 11, 1991, the Applicant submitted a third request for an extension of time to respond. In this request the Applicant stated again that he needed more time to obtain letters from "the rest of [his] former employers." We note that the only qualifying employment the Applicant listed on the Forms I-700 and I-705 was that with aka

In a statement attached to the instant appeal, the Applicant asserts that he worked as an agricultural laborer for in California. However, the Applicant submits no evidence to substantiate this assertion. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). In addition, although the Applicant claims that U.S. Citizenship and Immigration Services never responded to his last request for an extension, the Applicant attaches a copy of the Form I-700 denial to his appeal, indicating that he was in fact notified at some point that his application had been denied. The Applicant requests that his Form I-700 be reopened on the basis that it was erroneously denied.

[2] Although the Director's notice of denial is undated, USCIS electronic systems indicate that the application was denied on August 21, 1991.

Pursuant to 8 C.F.R. 103.5(b), we may *sua sponte* reopen or reconsider a decision under section 210 of the Act, if we determine that manifest injustice would occur if the prior decision were permitted to stand. *See Matter of O--*, 19 I&N Dec. 871 (Comm'r 1989). However, we do not find any procedural or legal errors in the Director's decision that would warrant reopening of the Applicant's Form I-700. Further, although the Applicant avers that the application was erroneously denied, he does not identify an error in the Director's decision.

According to our regulation at 8 C.F.R. § 103.3(a)(3)(iv), any appeal that is filed that does not state the reason for appeal, or is patently frivolous, will be summarily dismissed. The record reflects that the Director set forth a legitimate basis for denial of the application. The Applicant has not addressed the reasons stated for denial and has not provided additional evidence on appeal. The appeal must therefore be summarily dismissed. This decision constitutes a final notice of ineligibility.

ORDER: The appeal is summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(3)(iv).

Cite as *Matter of E-M-*, ID# 15264 (AAO Jan. 7, 2016)