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LL6

FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **OCT 25 2005**

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. 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, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a Group 1 special agricultural worker was denied by the Director, Western Service Center for Group 1 eligibility, remanded by the Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO), and denied again by the Director, Western Service Center for Group 2 eligibility. The matter is now before the AAO on appeal. The appeal will be dismissed.

The director denied the application for Group 1 status because the applicant failed to establish the performance of at least 90 man-days of employment during the first and second Group 1 twelve-month statutory periods ending May 1, 1984 and May 1, 1985. The director denied the application for Group 2 status because the applicant failed to establish the performance of at least 90 man-days of employment during the third twelve-month statutory period ending May 1, 1986.

According to Service records, the applicant filed an appeal from the initial Notice of Decision on September 24, 1990.

A Group 1 special agricultural worker is a worker who has performed qualifying agricultural employment in the United States for at least 90 man-days in the aggregate in each of the twelve-month periods ending May 1, 1984, 1985, and 1986, and has resided in the United States for six months in the aggregate in each of those twelve-month periods. 8 C.F.R. § 210.1(f)

A Group 2 special agricultural worker is a worker who during the twelve-month period ending on May 1, 1986, has performed at least 90 man-days in the aggregate of qualifying agricultural employment in the United States. 8 C.F.R. § 210.1(g)

In order to be eligible for temporary resident status, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, provided he is otherwise admissible under section 210(c) of the Act and is not ineligible under 8 C.F.R. § 210.3(d).

On the application, Form I-700, the applicant failed to claim any man-days of employment during the third Group 1 eligibility and the Group 2 eligibility period May 1, 1985 to May 1, 1986. In support of his claimed employment, the applicant submitted a Form I-705 employment affidavit, which corroborated the fact that the applicant did not claim any employment in agriculture from May 1, 1985 to May 1, 1986.

The applicant's claimed employment occurred outside of the twelve-month eligibility period ending May 1, 1986. The applicant has neither claimed nor documented that he performed agricultural employment during this eligibility period. Consequently, the applicant is statutorily ineligible for adjustment to temporary resident status as a special agricultural worker.

ORDER: The Appeal is dismissed. This constitutes the final notice of ineligibility.