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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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*ADMINISTRATIVE APPEALS OFFICE*
*425 Eye Street N.W.*
*BCIS, AAO, 20 Mass, 3/F*
*Washington, D.C. 20536*

FILE: [redacted] OFFICE: California Service Center DATE: AUG - 5 2003

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

PUBLIC COPY

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS: Attached is the decision rendered on your appeal. 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, the Service Center will contact you. 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 special agricultural worker was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further consideration and action.

The director denied the application because the applicant failed to submit a complete application within the time permitted as required of S-9 preliminary applicants.

The applicant was admitted to the United States at Calexico, California on September 30, 1988 as an S-9 applicant who established a preliminary claim to eligibility for temporary resident status as a special agricultural worker. The applicant was admitted for a period of 90 days in accordance with 8 C.F.R. 210.2(c)(4)(iii), and required, within that 90 day period, to submit a complete application, along with a Fingerprint Card, Form FD-258, to any legalization office. A complete application had to include evidence of qualifying employment, a report of medical examination and the prescribed number of photographs. 8 C.F.R. 210.1(d).

Pursuant to Legalization Wire CO-1588-C, dated November 28, 1989, the 90 day period within which S-9 applicants were required to submit their complete applications was extended until December 31, 1989. If an S-9 applicant failed to submit a complete application in accordance with the above, his application was to be denied for lack of prosecution. 8 C.F.R. 210.2(c)(4)(iii).

A review of the record of proceedings discloses that, within the required 90 days of entry, the applicant submitted a completed application to establish eligibility for temporary resident status. Additionally, the record includes two successive Form I-72 requests for information, in which the applicant was asked by the Bureau to provide *additional evidence* of employment in agriculture. However, the director did not render any analysis of, or specify any deficiencies in, the evidence already furnished by the applicant, which included not only a Form I-705 affidavit but a separate employment affidavit, both of which are signed by the applicant's claimed employer.

As the applicant filed a completed application in a timely manner, the director should have fully adjudicated that application. Accordingly, the case will be remanded for the purpose of a new decision addressing the above. The applicant will be permitted to appeal to the AAO, without a fee, in the event of a new decision of denial.

**ORDER:** The case is remanded for appropriate action and decision consistent with the foregoing.