

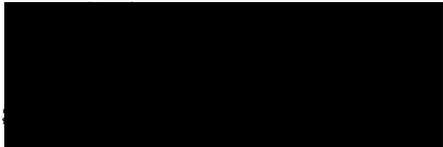


U.S. Citizenship  
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FILE: SRC 02 191 52531 Office: TEXAS SERVICE CENTER Date: FEB 10 2005

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

PETITION: Immigrant Petition for Other Worker Pursuant to § 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(3)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The preference visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a farm. It seeks to employ the beneficiary permanently in the United States as a general farm worker. As required by statute, a Form ETA 750, Application for Alien Employment Certification approved by the Department of Labor, accompanied the petition. The director determined that the beneficiary did not meet the experience required by the labor certification.

On appeal, the petitioner submits a statement and additional evidence.

Section 203(b)(3)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(iii), provides for the granting of preference classification to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

To be eligible for approval, a beneficiary must have the education and experience specified on the labor certification as of the petition's filing date. The filing date of the petition is the initial receipt in the Department of Labor's employment service system. *Matter of Wing's Tea House*, 16 I&N 158 (Act. Reg. Comm. 1977). In this case, that date is May 24, 1999.

The approved alien labor certification, "Offer of Employment," (Form ETA-750 Part A) describes the terms and conditions of the job offered. Block 14 and Block 15, which should be read as a whole, set forth the educational, training, and experience requirements for applicants. This information appears as follows:

Education	College Degree Required		
	None		
Experience Job Offered	Related Occupation	Related Occupation	
Yrs.	Yrs.		
1			

Block 15 states: "We have a small herd of cattle (25 to 30) on a permanent grass patch that will need to be tended to."

Based on the information set forth above, it can be concluded that an applicant for the petitioner's position of general farm worker must have one-year experience as a general farm worker.

The regulation at 8 C.F.R. § 204.5(g)(1) requires that evidence relevant to qualifying experience or training must be submitted in the form of letters from current or former employers or trainers and must include the name, address, and title of the writer and a specific description of the alien's duties. If this evidence is unavailable, other documentation will be considered.

In this case, the petitioner submitted a letter from [REDACTED] stating that Mr. [REDACTED] worked for him during the first part of 1998 for about four months. The letter continues by stating, "Mr. [REDACTED] and his wife [REDACTED]"

are hard working people, they are very reliable and honorable while working for me.” It is unclear from the letter whether the beneficiary worked for Mr. [REDACTED] or just her husband.

The director considered the letter to be insufficient as proof of the beneficiary’s employment and denied the petition on March 5, 2003.

On appeal, the petitioner submits two additional employment letters and states:

I am sorry I did not send enough information concerning [REDACTED] experience. This is my first time so please bear with me.

I am sending two letters attesting to her experience working in a milo area and irrigation experience.

We were pleased that she could do most of the work we had in our cotton area. Please take in consideration that this was my error, not hers.

The experience letters provided with the appeal are from [REDACTED] Inc., and [REDACTED] 4-K Farms. The letter from [REDACTED] indicates that the beneficiary worked for his farm during the summer and fall of 1998. The letter from [REDACTED] indicates that the beneficiary worked for her farm during the summer and fall of 1996. Neither letter gives specific dates of employment.

In the instant case, the ETA 750 requires one year of experience in the job offered. The evidence to establish that the beneficiary had one year of experience as a general farm worker consists of three letters that do not give specific dates of employment. The AAO cannot conclude that working the summer and fall of a year would include four months of work or that because the beneficiary’s spouse worked for four months, the beneficiary did likewise.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

**ORDER:** The appeal is dismissed.