

**PUBLIC COPY**

**Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

U.S. Department of Homeland Security

Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 MASS, 3/F  
425 I STREET, N.W.  
Washington, D.C. 20536



FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE:

**NOV 08 2003**

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:



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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

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. The matter was reopened and denied again by the Director, California Service Center. It is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director initially denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on adverse information acquired by the Service relating to the applicant's claim of employment for [REDACTED]

On appeal, counsel stated that the applicant did not know why his application had been denied. Counsel requested a copy of the applicant's Citizenship and Immigration Services (CIS) file and an extension of 30 days after receipt of the file in which to provide a brief. CIS complied with this request by providing the applicant with a copy of his file on March 22, 1993. The director reopened the matter on March 23, 1993 and subsequently denied the application again. Neither the applicant nor counsel has provided a brief or any response subsequent to the request for a copy of the record.

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).

On the Form I-700 application, the applicant claimed to have performed qualifying agricultural employment for [REDACTED] at [REDACTED] farm for 45 man-days from May 1985 to July 1985, and at Early Riser Harvest for 75 man-days from September 1985 to December 1985, both in Blythe, California.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter, both signed by Antonio Serrano, who indicated he was the applicant's foreman and that the applicant was paid cash.

In attempting to verify the applicant's claimed employment, CIS acquired information which contradicted the applicant's claim. Telephone contact with [REDACTED] and other farm officials revealed that [REDACTED] was not employed by [REDACTED] during the qualifying period, and that all employees were paid by check.

On April 15, 1991, the applicant was advised in writing of the adverse information obtained by the Service, and of the Service's intent to deny the application. The applicant was granted thirty days to respond. The applicant failed to respond to the notice.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application. On appeal, counsel claimed that the applicant had never received a notice of intent to deny and requested a copy of the applicant's file. CIS subsequently provided a copy of the file. Later, the director reopened the proceeding, then afterward denied the application again. The file contains no further response from the applicant or counsel.

Generally, the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and amenability to verification. 8 C.F.R. 210.3(b)(1). Evidence submitted by an applicant will have its sufficiency judged according to its probative value and credibility. 8 C.F.R. 210.3(b)(2). Personal testimony by an applicant which is not corroborated, in whole or in part, by other credible evidence (including testimony by persons other than the applicant) will not serve to meet an applicant's burden of proof. 8 C.F.R. 210.3(b)(3).

There is no mandatory type of documentation required with respect to the applicant's burden of proof; however, the documentation must be credible. All documents submitted must have an appearance of reliability, i.e., if the documents appear to have been forged, or otherwise deceitfully created or obtained, the documents are not credible. United Farm Workers (AFL-CIO) v. INS, Civil No. S-87-1064-JFM (E.D. Cal.).

According to farm officials, [REDACTED] paid all employees by check, and did not employ [REDACTED] during the qualifying period. The applicant has not produced any credible evidence to overcome this derogatory information which directly contradicts his claim. With regard to the applicant's claim to have worked at Early Riser Harvest, the 75 man-days claimed are not sufficient to establish the applicant's eligibility. Furthermore, this claim is supported entirely by the testimony of [REDACTED] whose credibility as an affiant has been compromised by the adverse evidence obtained by CIS. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has failed to establish credibly the performance of at least 90 man-days of qualifying agricultural employment during the twelve-month statutory period ending May 1, 1986. Consequently, the applicant is ineligible for adjustment to temporary resident status as a special agricultural worker.



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