

U.S. Department of Homeland Security

Citizenship and Immigration Services

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invasion of privacy**

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

File: [REDACTED] Office: California Service Center

Date: OCT 21 2002

IN RE: Applicant: [REDACTED]

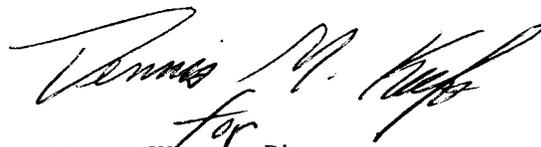
Application: Application for Temporary Resident Status pursuant to Section 210 of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT: SELF-REPRESENTED

PUBLIC COPY

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.



for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was initially denied by the District Director, Phoenix, Arizona. The matter was subsequently reopened by the Director, Western Regional Processing Facility, and the application was denied again by the Director, Western Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district and center directors both 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. Both decisions were based on adverse information relating to the applicant's claim of employment for Ramon Gomez at Tanita Farms.

On appeal from the district director's initial denial, the applicant reaffirmed his claim of agricultural employment by submitting a new employment letter signed by [REDACTED]. The applicant subsequently submitted a personal statement to supplement his appeal.

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 Immigration and Nationality Act (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 121 man-days weeding and harvesting cabbage, onions, and beets for [REDACTED] at Tanita Farms in Glendale, Arizona from September 1, 1985 to December 18, 1985.

In support of this claim, the applicant submitted a Form I-705 affidavit along with a separate employment letter, both signed by [REDACTED]. On the Form I-705 affidavit, [REDACTED] indicated that he employed the applicant at Tanita Farms in Maricopa County, Arizona, in his capacity as a farm labor contractor.

On April 11, 1988, the district director determined that the applicant's claim of employment for [REDACTED] was not credible and, therefore, denied the application. The applicant submitted an appeal to the district director's denial on April 25, 1988. The document submitted in support of the appeal shall be discussed below. The facility director subsequently reopened the matter in order to inform the applicant of adverse information relating to his claim of employment for [REDACTED].

In attempting to verify the applicant's claimed employment, Citizenship and Immigration Services (CIS) acquired information which contradicted the applicant's claim. On November 15, 1989, [REDACTED] bookkeeper and custodian of payroll records for [REDACTED] stated that [REDACTED] only employment with [REDACTED] Farms during the qualifying period occurred from May 1, 1985 through July 15, 1985. It is noted that this period consists of only 76 man-days during the requisite qualifying period. In this case, the applicant claimed to have worked under [REDACTED] at Tanita Farms from September 1, 1985 to December 18, 1985, a period of time during which [REDACTED] was not employed by [REDACTED] Farms.

In addition, [REDACTED] stated that [REDACTED] was never employed as a farm labor contractor by [REDACTED] Farms, and he did not have access to company payroll records. Therefore, he would have been unable to verify the number of days a company employee worked.

On January 10, 1992, the applicant was advised in writing of the adverse information, and of CIS's intent to deny the application. The applicant was granted thirty days to respond. The record shows that the applicant failed to respond to the notice.

The center director determined that the applicant had failed to overcome the derogatory evidence and denied the application.

On appeal, the applicant reaffirmed his claim of agricultural employment by submitting a new letter of employment signed by [REDACTED]. In his letter, [REDACTED] declared that he had employed the applicant as a farm laborer from September 1, 1985 to December 18, 1985. [REDACTED] also attempted to explain any discrepancies relating to Tanita Farms by stating that confusion arose because this enterprise changed its name to [REDACTED], in 1983. However, [REDACTED] explanation is wholly inadequate in light of the fact that an official of this enterprise informed CIS that [REDACTED] was not employed by Tanita Farms after July 15, 1985.

The applicant also submitted a personal statement in which he reaffirmed his claim of employment for [REDACTED] at [REDACTED] Farms. The applicant stated that he had subsequently attempted to locate [REDACTED] in order to obtain additional employment documentation, but that he had been unsuccessful in his attempt.

Generally, the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and amenability to verification as stated in 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.).

CIS investigation revealed that [REDACTED] did not work at [REDACTED] Farms after July 15, 1985, and that [REDACTED] never worked as a farm labor contractor at that establishment. This evidence directly contradicts the applicant's claim that he worked for [REDACTED] at [REDACTED] Farms from September 1, 1985 to December 18, 1985. The applicant has not overcome this derogatory evidence. 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.

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