

U.S. Department of Homeland Security  
Citizenship and Immigration Services

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



File:

Office: California Service Center

Date OCT 21 2003

IN RE: Applicant:

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 denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director 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 (now Citizenship and Immigration Service, or CIS) relating to the applicant's claim of employment for [REDACTED]

On appeal, the applicant puts forth a new claim of employment for [REDACTED]. The applicant states that he had worked for many foreman during the eligibility period but that he could not locate these employers in order to obtain supporting documentation. The applicant submits an employment letter signed by [REDACTED] in support of his new claim of agricultural employment.

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 127 man-days cultivating grapes for farm labor contractor [REDACTED] from May 1985 to October 1985.

In support of his claim, the applicant submitted an employment letter purportedly signed by [REDACTED]. While the employment letter indicated that the applicant also worked from May 1986 to September 1986, such work occurred after the expiration of the eligibility period on May 1, 1986. Furthermore, neither the applicant nor [REDACTED] provided the specific names of any farms where such work purportedly occurred.

In attempting to verify the applicant's claimed employment, CIS acquired information which contradicted the applicant's claim. Specifically, CIS obtained a letter from [REDACTED] dated November 18, 1987 with an exemplar of her authentic signature and the genuine letterhead she used for the employment verification affidavits she issued. [REDACTED] informed CIS that she issued all employment letters on original printed letterheads only, never on stamped or photocopied letterhead. The documentation submitted by the applicant does not match the authentic signature and letterhead exemplars provided by [REDACTED].

On December 12, 1991, CIS attempted to advise the applicant in writing of the adverse information relating to his claim of agricultural employment and of CIS's intent to deny the application. However, the record shows that the correspondence was returned by the United States Postal Service as unclaimed. The record reflects that the applicant was subsequently provided this correspondence as he included a copy of this notice with his appeal.

The director concluded the applicant had not overcome the derogatory evidence and denied the application. On appeal, the applicant advances a new claim of employment [REDACTED]. However, the applicant makes no statement regarding adverse information relating to his original claim of employment for [REDACTED]. Specifically, the applicant fails to address the fact that the employment letter and the purported signature of [REDACTED] contained therein, that was submitted in support of his original claim of employment do not match the authentic signature and letterhead exemplars provided to CIS by [REDACTED].

In support of his new claim of employment, the applicant submits an employment letter signed by [REDACTED] [REDACTED] indicates that he employed the applicant for 27 man-days picking okra from November 1985 to December 8, 1985 and 72 man-days cultivating cherry tomatoes and squash from February 4, 1986 to April 30, 1986 at his farm in Indio, California.

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.).

An applicant raises serious questions of credibility when asserting an entirely new claim to eligibility on appeal. The applicant declares that he had worked for many foreman during the eligibility period but that he could not locate these employers in order to obtain supporting documentation. However, this explanation is

wholly inadequate in light of the fact that the instructions to the application do not encourage applicants to limit their claims; rather, applicants are encouraged to list multiple claims, as they are instructed to show the most recent employment first. The adequacy of this explanation is further lessened because the applicant could have listed multiple claims of employment on his original application and then subsequently obtained employment documentation from these alleged employers.

Larger issues of credibility arise when an applicant claims employment which is called into question through CIS investigation, and later attempts to establish eligibility with a different employer, heretofore never mentioned to the CIS. For these reasons, the applicant's new claim of employment for [REDACTED] will not serve to fulfill the qualification requirements necessary for status as a special agricultural worker.

The applicant's initial claim is lacking in credibility due to the adverse evidence. Specifically, [REDACTED] provided authentic signature and letterhead exemplars to CIS and these exemplars do not match either the letterhead or signature contained in the applicant's employment letter that was purportedly signed by Ms. [REDACTED]. The applicant has not overcome such derogatory evidence.

The validity of the applicant's amended claim on appeal must be deemed questionable at best. Under these circumstances, it cannot be concluded the applicant has credibly established that he performed at least 90 man-days of qualifying agricultural employment during the statutory period ending May 1, 1986. Consequently, the applicant has not demonstrated his eligibility for temporary resident status as a special agricultural worker.

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

COEXM:GRAFTERY:305-3199  
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S.E.R.