



U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: SEP 09 2004

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:

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. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. 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

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prevent clearly unwarranted  
invasion of personal privacy

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**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 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 Immigration and Naturalization Service (the Service) relating to the applicant's claim of employment for [REDACTED]

On appeal, the applicant asserts that he did indeed work for Enrique Rivera as claimed. He provides copies of previously submitted documents.

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 picked grapes for 112 days for [REDACTED] at Rancho Corporation in San Bernardino County, California from September 1985 to February 1986, and for 94 days at E & S Grape Growers from February 1986 to July 1986.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit signed by [REDACTED] who identified himself as a foreman and asserted that the applicant was paid in cash.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. The secretary for E & S Grape Growers informed the Service that Enrique Rivera had worked for the farm as a laborer, but never as a foreman or contractor. The manager of E & S Grape Growers asserted that all employees are paid by check.

The Service attempted to call Rancho Corporation at the number given on the Form I-705 affidavit. The number given for Rancho Corporation had belonged for 20 years to the private residence of an individual who had never heard of Rancho Corporation. The Service contacted directory assistance to obtain a working telephone number for this farm. Directory assistance indicated that there was no listing for the farm.

On December 16, 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. In response to the Service's notice, the applicant submitted a December 23, 1991 statement from [REDACTED] who claimed that he had been, and still was, a foreman of Rancho Corporation, E&S Grape Growers, and others. He stated that he provided the workers, and paid them in cash. He explained that the office records would therefore only show the money paid to him. Mr. Rivera reiterated that the applicant worked for him.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application. On appeal, the applicant claims that he did work for Mr. [REDACTED] as claimed.

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.).

Officials of E & S Grape Growers have indicated that all workers were paid by check, and have denied that [REDACTED] ever served in a supervisory capacity at that farm. Mr. [REDACTED] has indicated that he hired and supervised workers for at least four ranches for years, and yet he provides no documents in support of such claim. This information, coupled with the Service's inability to contact Rancho Corporation, indicates that the application is highly questionable, is not amenable to verification and, therefore, fails to meet the evidentiary requirements set forth in 8 C.F.R. 210.3(b). The applicant has provided no documentary evidence of any kind to refute the derogatory information or to demonstrate that [REDACTED] supervised *any* agricultural workers at any site during the qualifying period.

The applicant has failed to establish 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.