

identity log data deleted to
protect identity of individuals
involved in personal privacy

PUBLIC COPY

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

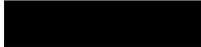


U.S. Citizenship
and Immigration
Services



L1

FILE:



Office: CALIFORNIA SERVICE CENTER

Date: DE 13 2010

IN RE:

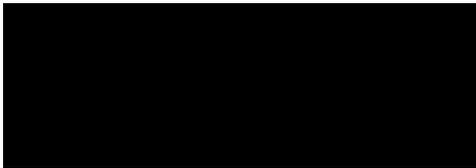
Applicant:



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:

This is the decision of the Administrative Appeals Office in your case. 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, 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

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, remanded by the Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO) on appeal, and denied again by the Director, California Service Center. The matter is now before the AAO on appeal. The appeal will be dismissed.

The directors 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 from the initial decision, the applicant submitted a personal statement.

On appeal from the final decision, the applicant submitted a statement from counsel.

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 163 man-days employment for [REDACTED] in Bakersfield and Delano, California from April 1985 to October 1985. The applicant also claimed 128 man-days employment subsequent to the qualifying period ending May 1, 1986.

In support of the claim, the applicant submitted an employment verification letter purportedly signed by [REDACTED]. The letter contains a stamp which identifies [REDACTED] as a farm labor contractor and indicates that Mr. [REDACTED] address is [REDACTED]

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which cast doubt on the credibility of the applicant's documentation. The signatures on the applicant's supporting documents are visibly and significantly different from authentic exemplars obtained by the Service.

On February 5, 1992, 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 record does not contain a response to the notice from the applicant.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application March 16, 1992. On appeal, the applicant reaffirmed her claimed employment stating that she had tried to locate [REDACTED] but had been unsuccessful in her attempts.

On August 27, 2001, the LAU determined that the record did not contain any exemplars of [REDACTED] signature and remanded the case for the inclusion of such evidence into the record.

On April 10, 2002, the applicant was again advised in writing of the adverse information obtained by the Service, and of the Service's intent to deny the application. Specifically, the applicant was informed that on April 25, 1988, [REDACTED] appeared before a Service officer and examined applications which bore rubber stamp [REDACTED] letterheads. After examining the documents Mr. [REDACTED] refuted both the letters and the signatures contained on the letters. Mr. [REDACTED] stated that the rubber stamp misspelled the street on which he lived. He indicated that he lived on [REDACTED] not [REDACTED] street as indicated on the rubber stamp. The applicant's letter contained the rubber stamp, which [REDACTED] had identified as being fraudulent. The applicant was granted thirty days to respond. The record does not contain a response to the notice from the applicant.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on October 25, 2004. On appeal, counsel for the applicant stated that the application should be approved because the record neither contained any exemplars of [REDACTED] signature nor any evidence that [REDACTED] appeared before the Service on April 25, 1988.

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.)*.

A review of the record reveals that there are several exemplars of [REDACTED] signature contained in the record. Further, the record contains copies of officer notes taken at the time [REDACTED] appeared at the Bakersfield, California Legalization Office on April 25, 1988. In light of the fact that the record contains sufficient evidence to corroborate the director's findings in the case, counsel's objections are not persuasive.

The signature discrepancy noted by the director calls into question the origin and authenticity of the applicant's documentation. The applicant submitted documentation which [REDACTED] declared to be fraudulent. 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 credibly 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.