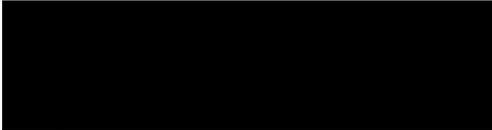




U.S. Citizenship  
and Immigration  
Services

Identity information deleted by  
[redacted]  
[redacted]

PERIODIC



21

FILE:



Office: CALIFORNIA SERVICE CENTER

Date: 09 13 2005

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. 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.

A handwritten signature in black ink, 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, 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 Bureau relating to the applicant's claim of employment for [REDACTED]

On appeal, the applicant submitted a personal statement.

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 58 man-days employment for [REDACTED] cultivating grapes at [REDACTED] from May 1985 to August 1985 and 45 man-days employment picking grapes for [REDACTED] at Duda Ranch from August 1985 to October 1985.

In support of this claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter, both signed by [REDACTED]

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. Specifically, in a letter to the Service dated November 15, 1988, [REDACTED] Co-owner of [REDACTED] provided the Service with a list of six employees who were employed by him for the period of May 1, 1985 to December 31, 1985. Mr. [REDACTED] specified that any work done by a farm labor contractor at [REDACTED] in 1985 was completed prior to the requisite qualifying date of May 1, 1985. Furthermore, Mr. [REDACTED] provided the Service with a list of employees who worked for the period of January 1, 1986 to March 31, 1986, along with a supplemental list of employees who worked from April 1, 1986 to May 1, 1986. The applicant's name does not appear on any of these lists.

Furthermore, the Service contacted [REDACTED] Supervisor of Agricultural Business and Appraisals at the Kern County/Maricopa Accessors office. Mr. [REDACTED] checked their records and stated that there has never been a Duda Ranch in either Kern County or Maricopa County, California.

On September 12, 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 notice, the applicant submitted a letter in which he reaffirmed his claimed employment.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on November 18, 1991. On appeal, the applicant stated that he was paid in cash and therefore no records were kept of his employment.

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.).

The derogatory information obtained by the Bureau regarding Rumaldo Cerda directly contradicts the applicant's claim. The applicant has not overcome such 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.