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U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JUN 02 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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status as a special agricultural worker (SAW) was denied by the District Director, San Diego, California. The application was reopened and denied again by the Director, Western Service Center. The matter is before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In both decisions of denial, 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. The decisions were based on evidence adverse to the applicant's claim of employment for [REDACTED] Santa [REDACTED]

On appeal from the district director's decision, the applicant reaffirmed his claimed employment in agriculture stating that he worked for [REDACTED] and that he was paid in cash. The applicant submitted additional employment documentation.

In response to the center director's denial, the applicant stated that he did engage in qualifying agricultural employment and that he had located his former employer who provided him with additional employment documentation. The applicant submitted an employment affidavit purportedly signed by [REDACTED]

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 performed 98 man-days harvesting strawberries for [REDACTED] at Santa Maria Berry Farms in Santa Barbara County, California from June 1, 1985 to October 1, 1985.

In support of his claim, the applicant submitted an I-705 affidavit and a separate employment statement, both purportedly signed by Victor Heredia. \*

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. In a letter, dated February 14, 1989, [REDACTED] Office Manager for [REDACTED] Farms, informed the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS) that Victor Heredia was a sub-contractor from "December 1985 to the present."

On October 21, 1988, the district director denied the application. On appeal, the applicant reaffirmed his claimed employment in agriculture stating that he worked for [REDACTED] and that he was paid in cash. The applicant submitted two separate employment verification statements. In one affidavit, the applicant's brother [REDACTED] stated that he used to give his brother a ride to and from work and that Mr. [REDACTED] used to pay the applicant cash daily. In the other affidavit, a purported co-worker [REDACTED] stated that he and the applicant worked for [REDACTED] on the same crew during the qualifying period and that they were paid cash daily. The applicant also submitted a letter from a potential employer.

On January 8, 1991, the application was reopened and on that date the applicant was advised in writing of the adverse information obtained by the CIS, and of the CIS's intent to deny the application. The applicant was granted thirty days to respond. In response to the director's notice, the applicant submitted photocopies of evidence previously submitted on appeal.

The center director determined that the applicant had failed to overcome the adverse evidence, and denied the application on February 28, 1992. On appeal, the applicant reaffirmed his claimed employment in agriculture stating that he worked for [REDACTED] and that he was paid in cash. The applicant submitted an

employment verification letter purportedly signed [REDACTED] who stated that he went to work for [REDACTED] in 1985 and that the applicant worked for him from 1985 through 1986. The affiant stated that since he paid his employees in cash, the letter was the only proof he could offer that the applicant worked for him.

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 affidavits from [REDACTED] and [REDACTED] fail to identify any specific period of time or the place that the applicant purportedly worked for [REDACTED]. Therefore, the affidavits do not corroborate the applicant claimed June 1, 1985 to October 1, 1985 employment at [REDACTED] Farms.

The documentation purportedly from [REDACTED] is contradictory. Initially, Mr. [REDACTED] claimed that the applicant worked at [REDACTED] Farms from June 1985 to October 1985. However, in his letter dated March 18, 1992, Mr. [REDACTED] indicated that the applicant worked at [REDACTED] Farms from 1985 through 1986. In light of these contradictions and the fact that the applicant initially claimed employment for Mr. [REDACTED] during a period of time when Mr. [REDACTED] was not employed at [REDACTED] Farms, the applicant's documentation cannot be deemed credible. It is significant that the applicant has not addressed the fact that he claimed employment for Mr. [REDACTED] during a period of time when Mr. [REDACTED] was not an employee at [REDACTED] farms.

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.