

U.S. Department of Homeland Security
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Washington, DC 20529

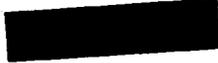
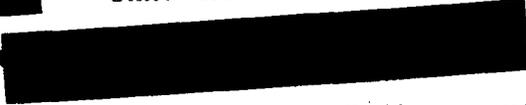


U.S. Citizenship
and Immigration
Services

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FILE:  Office: CALIFORNIA SERVICE CENTER Date: NOV 03 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 was denied by the Director, Western Service Center, remanded by the Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO) 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 denial, the applicant reaffirmed his claimed 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 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 112 man-days of qualifying agricultural employment for [REDACTED] in Maricopa County, Arizona from November 9, 1985 to March 9, 1986.

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

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. On January 22, 1990, in the presence of Service officers, [REDACTED] admitted in a signed, sworn statement that all of the employment documents signed by him were fraudulent.

On December 18, 1991, the Service advised the applicant in writing of the adverse information obtained by the Service, and of the Service's intent to deny the application.

In response, the applicant submitted a statement describing his agricultural duties when he purportedly worked for [REDACTED]. The applicant submitted a letter from [REDACTED] who stated that he and the applicant worked together in agriculture from 1985 through 1986. The applicant also submitted letters from [REDACTED] and [REDACTED] both of whom stated that they worked with the applicant for [REDACTED]

The director determined that the applicant had failed to overcome the adverse evidence, and denied the application on January 31, 1992. On appeal, the applicant reaffirmed his claim to eligibility.

Subsequently, the application was reopened and on November 30, 2004 the director issued a new decision denying the application. The applicant did not respond to that notice.

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.)*.

[REDACTED] admitted under oath that all employment documents which he prepared are fraudulent. In light of this fact the documentary evidence submitted by the applicant cannot be deemed credible. The applicant

has not overcome such derogatory evidence which directly contradicts the applicant's claim. 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.