

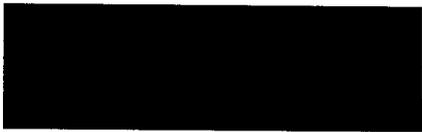
U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY



41

FILE: [REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: **SEP 16 2005**

IN RE: Applicant: [REDACTED]

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. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

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

On appeal, the applicant reasserted his claim to eligibility.

A Group 1 special agricultural worker is a worker who has performed qualifying agricultural employment in the United States for at least 90 man-days in the aggregate in each of the twelve-month periods ending May 1, 1984, 1985, and 1986, and has resided in the United States for six months in the aggregate in each of those twelve-month periods. 8 C.F.R. § 210.1(g)

A Group 2 special agricultural worker is a worker who during the twelve-month period ending on May 1, 1986, has performed at least 90 man-days in the aggregate of qualifying agricultural employment in the United States. 8 C.F.R. § 210.1(b)

An applicant for temporary resident status under section 210 of the Act "has the burden of proving by a preponderance of the evidence that he or she has worked the requisite number of man-days, is admissible to the United States... and is otherwise eligible for adjustment of status under this section." 8 C.F.R. § 210.3(b). When something is to be established by a preponderance of evidence it is sufficient that the proof only establish that it is probably true. See generally, McCormick, Evidence sec. 339 (2d ed. 1972).

On his application the applicant claimed 110 man-day of qualifying agricultural employment for farm labor contractor [REDACTED] at different farms in Ventura, California from May 1, 1985 to May 1, 1986.

In an attempt to establish the performance of the requisite qualifying agricultural employment during the eligibility period, the applicant has submitted the following evidence:

- 1) A corresponding Form I-705 affidavit purportedly signed by [REDACTED]
- 2) Two separate employment verification letters purportedly signed by [REDACTED]
- 3) A man-days breakdown purportedly signed by [REDACTED]
- 4) A letter verifying that [REDACTED] signed the aforementioned documents.

On September 5, 1991, the applicant was informed that Mr. [REDACTED] signature on his documentation did not appear to match known exemplars of Mr. [REDACTED] signature. In response to the notice, the applicant submitted a letter purportedly signed by [REDACTED] in which he asserted that the signatures on the documents submitted by the applicant were his true and correct signatures. The letter was dated September 14, 1991.

Based on the adverse evidence, the director denied the application on October 30, 1991. On appeal, the applicant reaffirmed his claim to eligibility referencing the letter he submitted in response to the Notice of Intent to Deny.

The record does not contain any forensic analysis of the signatures submitted by the applicant. Therefore, it has not been determined that it was highly probable that the same person did not sign the applicant's documentation. Rather, the visual observation of the signatures upon which the decision is based does not disqualify the applicant. The letter submitted in response to the Notice of Intent to Deny, reaffirming the authenticity of the signatures is significant. Contrary to the director's conclusion in his decision, this letter does appear to overcome the adverse evidence upon which the denial is based.

The documentation submitted by the applicant throughout the application process appears to be consistent and to corroborate the applicant's claim. Such documents, including affidavits submitted by individuals who are willing to testify in this matter, may be accorded substantial evidentiary weight. It is, therefore, concluded that the applicant performed the requisite qualifying agricultural employment during the twelve-month statutory period ending May 1, 1986.

There are no known grounds of ineligibility, and it appears the application should be approved.

ORDER: The case is remanded for action and consideration consistent with the above.