

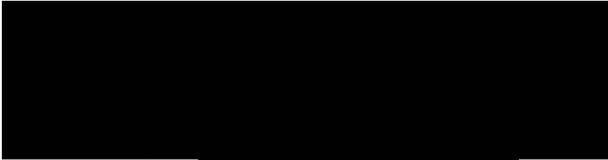
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U.S. Department of Homeland Security
20 Mass. Avenue, N.W., Rm. 3000
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U.S. Citizenship
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Services *L1*

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JUL 18 2006

XID-88-051-1011

IN RE:

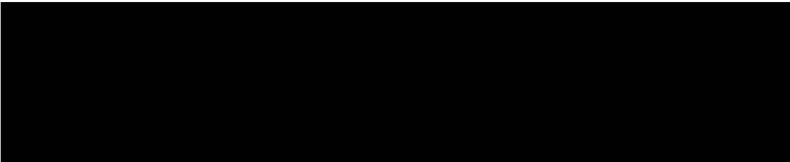
Applicant:



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, Chief
Administrative Appeals Office

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

The directors denied the application because the applicant failed to establish that he performed at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on information provided by [REDACTED] for whom the applicant claimed to have worked.

On appeal from the initial denial, the applicant reaffirmed her original employment claim. She stated that she had been advised to seek additional documentation to support her eligibility, which she was doing. The applicant did not respond to the final denial.

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, provided he is otherwise admissible under section 210(c) of the Act and is 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 application, Form I-700, the applicant claimed to have performed 102 man-days harvesting grapes for [REDACTED] in Bakersfield, California from June 1985 to September 1985.

In support of the claim, the applicant submitted a corresponding employment statement purportedly 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 4, 1988, in United States District Court, Southern District of California, [REDACTED] pled guilty to violating one count of 18 U.S.C. § 1001 and 2, aiding and abetting false statements and writings used in support of applications filed for special agricultural worker status.

[REDACTED] was informed that the Service received more than 2,200 Special Agricultural Worker applications from individuals who allege to have worked for [REDACTED] in Kern County, California. On April 10, 1990, [REDACTED] provided a voluntary sworn statement to assist this agency in clearing up problems that I and persons signing my name to these employment affidavits have created." In his statement, [REDACTED] stated that the only work he performed in the years 1985 and 1986 relating to grapes was to rent tractors to harvesting crews and to periodically check these tractors for needed repairs. [REDACTED] further stated that the only agricultural workers that he employed in the years 1985 and 1986 was a crew of 35 individuals that he hired from the local Bakersfield, California area. [REDACTED] employed these workers to harvest cotton, and he did not sign any employment verification letters or I-705 affidavits for any of his cotton harvesting crew, as they were all legal residents of the United States.

[REDACTED] specified that each and every employment verification letter and Form I-705 that indicates [REDACTED] or [REDACTED] as the affiant is false, fictitious, and fraudulent. [REDACTED] also advised the Service that he was aware of other individuals who signed verification letters using the name [REDACTED] or [REDACTED] and that these signed documents represent a forgery of his name and should also be considered false, fictitious, and fraudulent.

On July 12, 1990, 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 from the applicant.

The Director, Western Service Center concluded the applicant had failed to overcome the adverse information, and denied the application on April 23, 1991. On appeal, the applicant stated that she did not receive the notice of intent to deny her application. She reaffirmed her original claim of employment [REDACTED]

On June 20, 2001, the Administrative Appeals Office concluded that the applicant had not been apprised of any adverse evidence prior to the denial of her application and remanded the case instructing the director to advise the applicant of all the adverse evidence prior to rendering a new decision.

On November 1, 2004, the application was reopened and the applicant was advised in writing of the adverse evidence in possession of 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 from the applicant.

On April 12, 2005, the Director, California Service Center denied the application. The record does not contain a response to the denial.

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.), June 15, 1989.

The fact that [REDACTED] the applicant's alleged employer, admitted that all documentation he signed on behalf of individuals applying for special agricultural worker status was false directly contradicts the applicant's claim. The applicant has not overcome this adverse evidence. As such, 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