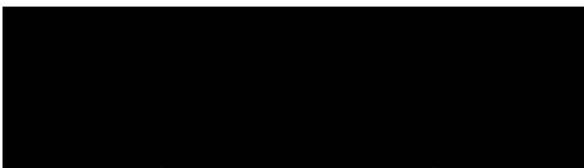




U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
XPO-88-151-4056

Office: CALIFORNIA SERVICE CENTER

Date: JUL 21 2006

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, 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 Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO). The application was again denied by the Director, California Service Center and is now before the AAO on appeal. The appeal will be dismissed.

The director initially 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 Immigration and Naturalization Service (the Service) relating to the applicant's claim of employment for [REDACTED]. The director finally denied the application because of conflicting information provided by the applicant in applying for other benefits under the Act.

On appeal from the initial denial, the applicant submitted a copy of an employment letter signed by Gregorio Jimenez, previously submitted. The record does not contain a response by the applicant 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, 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 his Form I-700 application, the applicant claimed 93 man-days employment irrigating corn and alfalfa for [REDACTED] in Riverside, California from August 1985 to March 1986. The applicant indicated on his application that he entered the United States in January 1985. In support of his claimed employment, the applicant submitted a corresponding Form I-705 affidavit signed by [REDACTED] a residence affidavit signed by [REDACTED], who stated that the applicant had been in the United States since January 1985 and, a 1987 Wage and Tax Statement.

On August 16, 1991, the director initially denied the application. On November 17, 1993, the LAU concluded that the adverse evidence acquired by the Service regarding the applicant's purported employment for LDS Welfare Farm was not sufficient to deny the application. The case was remanded back to the director for a new decision.

In attempting to verify the applicant's claimed employment, the Service (now, Citizenship and Immigration Services, or CIS) acquired information which contradicted the applicant's claim. Specifically, in August 1997 the applicant filed an application for suspension of deportation with the Executive Office of Immigration Review, Office of the Immigration Judge, Los Angeles, California. On that application, the applicant claimed that he first arrived in the United States on February 1, 1985. The applicant also stated that he left the United States in November 1985 and did not return to the United States until January 1, 1987. This information contradicts the applicant's statements on his Form I-700 Application for Temporary Residence as a Special Agricultural Worker and his supporting Form I-705 affidavit. On these documents he indicated that he worked in agriculture in the United States until March 1986 and resided in the United States from August 1985 through April 1988.

On April 22, 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, the applicant submitted a statement from [REDACTED] who stated that the applicant worked with him at [REDACTED] Farm from May 1, 1985 to May 1, 1986. It is noted that applicant only claimed employment until March 1986.

On August 16, 1991 the director, Western Service Center, denied the application. On appeal, the applicant submitted a copy of the letter from [REDACTED]

On November 17, 1993, the LAU remanded the case for further consideration.

On February 22, 2001, 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 applicant submitted a personal affidavit in which he claims that he had been present in the United States since August 1985. The applicant also stated that he entered the United States in August 1987. The applicant stated that the Application for Suspension of Deportation was filed by an office he went to seeking help acquiring work authorization. The applicant states that the information on the suspension application is incorrect.

The director, California Service Center, concluded the applicant had not overcome the derogatory evidence, and denied the application on May 2, 2001. The record does not contain any response to the final 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. [REDACTED] E.D. Cal.), June 15, 1989.

During his applying for various benefits under the Act, the applicant has claimed on his Form I-700 application that he first entered the United States on February 1, 1985 and worked in agriculture from August 1985 to March 1986. He later claimed on his Application for Suspension of Deportation that he returned to Mexico in November 1985 and did not return to the United States until January 1, 1987. He listed his places of residence in the United States from January 1987. The applicant's claim that he did not provide the Service with the information on that application is not deemed credible. In his response to the second Notice of Intent to Deny, the applicant stated that he had been present in the United States since August 1985, but he also stated that he entered the United States in August 1987.

Based on the evidence in the record, it cannot be concluded when the applicant was present in the United States before January 1987. Therefore, it cannot be concluded that the applicant worked in agriculture in the United States from August 1985 to March 1986 as claimed. The inconsistencies contained throughout the

record raise serious doubts about the credibility of the applicant's claim to benefits as a special agricultural worker. Therefore, the applicant's documentation cannot be deemed sufficiently probative to meet the burden of proving that the applicant performed a minimum of 90 man-days of qualifying agricultural employment during the qualifying period.

The applicant has, therefore, 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.