

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
20 Mass. Avenue, N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

L1

PUBLIC COPY



FILE: [Redacted]  
XFR 89 067 2044

Office: CALIFORNIA SERVICE CENTER

Date: SEP 22 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. 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 decision was based on evidence adverse to the applicant's claim of employment for [REDACTED]

On appeal, the applicant reasserts his claim to eligibility and submits additional evidence. He explains that he worked for Mr. [REDACTED] and for [REDACTED]

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(h)

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. *Matter of E-M*, 20 I&N Dec. 77 (Comm. 1999).

On the Form I-700 application, the applicant claimed 98 man-days of employment picking olives, oranges and grapes for [REDACTED] in Tulare, 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 signed by [REDACTED]
2. Two separate employment verification letters from co-workers [REDACTED] and [REDACTED]. Each affiant states that they have known the applicant for 20 years and they worked with the applicant at [REDACTED] in 1985 and 1986; and,
3. A 1986 payroll print-out from [REDACTED]

On August 23, 1991, the applicant was informed that Mr. [REDACTED] signature on his documentation did not appear to match known exemplars of Mr. [REDACTED] signature. Based on that adverse evidence, the director denied the application on October 21, 1991. On appeal, the applicant reaffirms his claim to eligibility, referencing the two letters from co-workers that he submits on appeal.

The record does not contain any forensic analysis of the signature submitted by the applicant on his Form I-705. Therefore, it has not been determined that [REDACTED] did not sign the applicant's documentation. Rather, the visual observation of the signature upon which the decision is based reflects that the signature resembles the exemplars to the extent that it does not disqualify the applicant. The two affidavits from co-workers corroborate the applicant's claim.

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.

**ORDER:** The appeal is sustained. The director shall complete the adjudication of the application.