



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

A1

[Redacted]

FILE: [Redacted]
XOX 88 583 3008

Office: CALIFORNIA SERVICE CENTER

Date: DEC 27 2007

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:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided 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 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. This decision was based on adverse information regarding the applicant's claim of employment for [REDACTED] a sharecropper at [REDACTED] located in Santa Maria, California.

On appeal, the applicant reiterated his claim of at least 90 man-days of qualifying agricultural employment for [REDACTED] at [REDACTED]s and submitted additional evidence in support of his claim.

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 to have performed 120 man-days of qualifying agricultural employment cleaning and picking strawberries for [REDACTED] at [REDACTED]. In support of the claim, the applicant submitted a Form I-705 affidavit signed by [REDACTED] who identified himself as a sharecropper at [REDACTED]. Mr. [REDACTED] indicated that the applicant worked for him for 120 days weeding and picking strawberries at [REDACTED] during the period from May 1985 to May 1986.

In attempting to verify the applicant's claimed employment, the Immigration and Naturalization Service, or the Service (now, Citizenship and Immigration Services, or CIS) acquired information that appeared to contradict the applicant's claim. Specifically, [REDACTED] secretary at [REDACTED] provided the Service with a list of their independent contract growers. This list included the names of sharecroppers who were contracted by [REDACTED] during the period from October 1, 1985 to approximately August 12, 1986.

On January 11, 1992, the director issued a notice informing the applicant of his intent to deny the application because the name [REDACTED] purportedly did not appear on the list of independent contract growers provided to the Service by Ms. [REDACTED]. The applicant was granted thirty days to respond. In response, the applicant submitted an affidavit dated February 18, 1992, from [REDACTED]¹ Mr. [REDACTED] stated that he was an independent contract grower of strawberries with [REDACTED] Farms during the qualifying period, and his grower number was 202. Mr. [REDACTED] reaffirmed his statement that the applicant worked for him as a strawberry picker during the 1985-1986 season. The applicant also provided a document

¹ [REDACTED] is also referred to as [REDACTED]

dated July 19, 1991, from [REDACTED] ns stating that [REDACTED] was listed as independent contract grower number 202 according to the Furukawa Farms independent contract grower records for the 1985-1986 season.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application.

On appeal, the applicant reiterated his claim of qualifying agricultural employment for [REDACTED] [REDACTED] during the requisite period. He submitted an affidavit dated March 23, 1992, from [REDACTED], who identified herself as an independent contract grower of strawberries with [REDACTED]. Ms. [REDACTED] stated that her independent contractor number was 203. She further stated that she personally observed the applicant working as a strawberry picker for [REDACTED] during the requisite period. Ms. [REDACTED] explained that she could attest to the fact that the applicant worked for [REDACTED] picking strawberries during the period in question because her parcel of land was located next to Mr. [REDACTED]'s parcel of land.

The record contains a copy of the independent contractor list cited by the director in the notice of intent to deny. A careful review of the names on the list reveals that the name [REDACTED] appears on the list as independent contract grower number [REDACTED]. The name [REDACTED] appears on the list as independent contract grower number [REDACTED]. The signature of [REDACTED] on the document dated July 19, 1991 identifying [REDACTED] as independent contract grower number [REDACTED] at [REDACTED] appears to match exemplars of Ms. [REDACTED]'s signature provided to the Service by [REDACTED]. In view of the foregoing, it is concluded that the applicant has overcome the adverse information cited by the director in the notice of intent to deny.

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 that 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.).

The applicant has established 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 eligible for adjustment to temporary resident status as a special agricultural worker.

ORDER: The appeal is sustained.