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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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FILE:

XST 88 144 02003

Office: CALIFORNIA SERVICE CENTER

Date: JAN 29 2007

IN RE:

Applicant:



APPLICATION: Application for Temporary Resident Status under 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. 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.

A handwritten signature in cursive script that reads "Maurice Wiemann".

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 dismissed.

The director 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 adverse information acquired by the Service relating to the applicant's claim of employment for [REDACTED]

On appeal, the applicant reaffirms his claim to have performed qualifying agricultural employment under the supervision of [REDACTED]

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 the provisions of 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 the following employment for labor contractor [REDACTED] picking cherries and apricots for 110 man-days at various locations in California from May 1985 to May 1986.

In support of the claim, the applicant submitted a Form I-705 affidavit purportedly signed by [REDACTED] indicating that the applicant worked for him for 110 man-days at various farms between May 1, 1985 and May 1, 1986. The applicant submitted another affidavit purportedly from [REDACTED] stating that the applicant worked for him on his farm labor crew at various farms where Mr. [REDACTED] was foreman between May 1, 1985 and May 1, 1986.

In the course of attempting to verify the applicant's claimed employment, the Service acquired information that contradicted the applicant's claim. Mr. And Mrs. [REDACTED] provided the Service with a list of names of their employees who they had provided employment verification documents and the applicant did not appear on their list. On January 28, 1992, the director advised the applicant of this adverse information and gave the applicant thirty days to respond. There is no evidence in the record that the applicant responded to the notice of intent to deny.

On March 10, 1992, the director denied the application. The applicant submitted a timely appeal and submitted additional evidence, including the following:

- An affidavit signed by [REDACTED] and dated March 30, 1992 stating that he worked as a foreman for [REDACTED] for many years and that ranchers might not remember him because he was a foreman, rather than a farm labor contractor.

- An affidavit signed by [REDACTED] dated March 30, 1992 stating that the applicant worked for him and that the reason Mr. [REDACTED] did not include him on his list of former employees was that he paid the applicant in cash.
- A letter dated March 30, 1992 from [REDACTED] stating that [REDACTED] worked for him as a farm labor foreman from May 1, 1985 to May 1986.
- An affidavit dated February 1991 signed by [REDACTED] on behalf of [REDACTED] stating that he gave his wife permission to sign his name because he broke his hand.

On June 13, 2000, the AAO notified the applicant of additional adverse information, namely that the Service contacted [REDACTED] and [REDACTED] stated that he had employed [REDACTED] in 1981 or 1982 and not again until 1987; hence he did not work for Mr. [REDACTED] in the years 1985-86. The applicant failed to respond to the AAO's notice of adverse evidence.

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)*, Civil No. [REDACTED] E.D. Cal.).

The fact that Mr. [REDACTED] the purported employer of [REDACTED] stated that he did not employ Mr. [REDACTED] during 1985 and 1986 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 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.