

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



W

FILE:

XSF 89 018 4028

Office: California Service Center

JAN 31 2007  
Date:

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:

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 black ink, appearing to be "Robert P. 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 later came before the Administrative Appeals Office (AAO) on appeal. The matter was subsequently remanded for compliance with the applicant's Freedom of Information Act (FOIA) request. The director has since provided the applicant with a copy of her record of proceeding. The matter is again before the AAO on appeal. The appeal will be dismissed.

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 ending May 1, 1986. This determination was based on adverse information regarding the applicant's claim of employment for [REDACTED]

On appeal, the applicant reiterated her request for a copy of the documentation in her record of proceeding, including the adverse information that led to the denial, and reasserted her claim regarding her employment as a special agricultural worker during the requisite statutory period.

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 90 man-days of qualifying agricultural employment for [REDACTED] (AKA [REDACTED]) from May 1, 1985 to September 25, 1985 and from May 1, 1986 to September 25, 1986. In support of her claim, the applicant submitted a corresponding Form I-705 affidavit signed by [REDACTED], who claimed to be a farm labor contractor. Mr. [REDACTED] indicated that the applicant picked and thinned peaches, plums, nectarines, grapes, oranges, lemons, and olives at the [REDACTED] farm. Mr. [REDACTED] further stated that supporting payroll records were not available because the applicant was paid in cash.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. On January 11, 1991, [REDACTED] informed the Service that all workers who were provided by Mr. [REDACTED] were paid by check and that no employee had been paid in cash since 1980.

On February 9, 1992, 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 asked for a copy of her record of proceeding and reiterated her claim of eligibility based on her purported employment as a special agricultural worker.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application. On appeal, the applicant again requested a copy of her record of proceeding. Although that request has since been honored, the applicant has provided no additional documentation to overcome the adverse evidence cited in the notice of intent.

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.).

[REDACTED], the owner of the farm where the applicant claimed to have worked, stated that his employees were "paid exclusively by check." The applicant has repeatedly claimed that she was paid in cash. Furthermore, it is noted that the applicant claimed to have worked with nectarines, peaches, and lemons on the [REDACTED] farm. However, on January 11, 1991, [REDACTED] specified that he did not grow these crops on his farm.

The derogatory information obtained by the Service regarding [REDACTED] directly contradicts the applicant's claim. The applicant has not overcome such derogatory evidence. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

Additionally, in item 23 of the Form I-700, the applicant stated that from May 1985 to January 1987 she resided at [REDACTED] and that in January 1987 she commenced residence at 332 [REDACTED]. However, in the Form I-705, which was completed and signed on October 5, 1988, the applicant is shown as residing at the [REDACTED] address. Therefore, the Form I-700 and the Form I-705 are inconsistent with regard to the applicant's address. This inconsistency creates further doubt as to the credibility of the applicant's claim.

The applicant has the burden of proof to establish his eligibility by a preponderance of the evidence. 8 C.F.R. § 210.3. 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 notice of ineligibility.