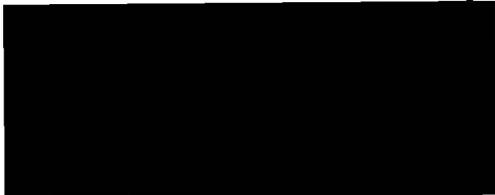




U.S. Citizenship  
and Immigration  
Services

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prevent clearly unwarranted  
invasion of personal privacy



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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

MAY 04 2007

XCA 88 155 01034

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. Any further inquiry must be made to that office.

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 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 statutory period. This conclusion was based on evidence adverse to the applicant's claim of employment for farm labor contractor [REDACTED] under foreman [REDACTED] and the applicant's revised claim of employment submitted in response to the Notice of Intent to Deny.

On appeal, the applicant asserts that during the qualifying period he worked at several farms in Imperial County. The applicant reaffirms his employment with [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 the alien is otherwise admissible under section 210(c) of the Immigration and Nationality 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 Form I-700 application, the applicant claimed 115 man-days from May 1985 to May 1986 for [REDACTED]. In support of the claim, the applicant submitted a corresponding Form I-705 affidavit purportedly signed by [REDACTED] who identified himself as a foreman for [REDACTED].

In attempting to verify the applicant's claimed employment, the legacy Immigration and Naturalization Service (INS) acquired information which contradicted the applicant's claim. [REDACTED] provided a list of foremen that was employed by him during the qualifying period. [REDACTED] did not include Ramon [REDACTED] name on his list of foremen.

On February 6, 1992, the applicant was advised in writing of the adverse information obtained by the legacy INS, and of its intent to deny the application. The applicant was granted thirty days to respond. The applicant, in response, put forth a new employment claim for [REDACTED] for 110 man-days from October 1985 to February 1986. Mr. [REDACTED] identified himself as a foreman for [REDACTED]. The director denied the application on March 20, 1992, because the applicant had severely diminished his credibility by revising his claim.

On appeal, the applicant reaffirms his employment with [REDACTED] but does not address his initial claimed employment with [REDACTED].

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).

Larger issues of credibility arise when an applicant claims employment which is called into question through an investigation, and later attempts to establish eligibility with a different employer, heretofore never mentioned to the legacy INS. The applicant provides no explanation as to why his claim to have been employed by [REDACTED] during the qualifying period was not advanced on the I-700 application or during the legalization interview. The instructions to the application do not encourage applicants to limit their claims; rather, applicants are encouraged to list multiple claims, as they are instructed to show the most recent employment first.

The applicant's advancement of a new employment claim does not address, resolve, or diminish the credibility issues raised by the adverse evidence as regards the applicant's initial claim. As the applicant has not contested the finding that his initial claim was false, his overall credibility remains in question. For these reasons, the applicant's new claim of employment for [REDACTED] will not serve to fulfill the qualification requirements necessary for status as a special agricultural worker.

The applicant's initial claim is lacking in credibility due to the adverse evidence. The validity of the applicant's amended claim must be deemed questionable at best. Under these circumstances, it cannot be concluded the applicant has credibly established that he performed at least 90 man-days of qualifying agricultural employment during the statutory period ending May 1, 1986. Consequently, the applicant has not demonstrated his eligibility for temporary resident status as a special agricultural worker.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.