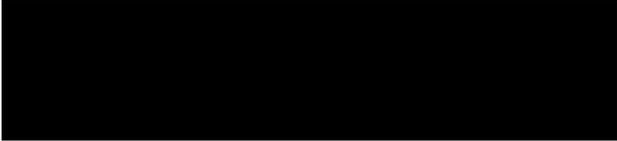




U.S. Citizenship
and Immigration
Services

PUBLIC COPY

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



LI

FILE: [REDACTED] Office: LOS ANGELES
XNK 89 059 0328

Date: NOV 19 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: 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status was initially denied by the Director of the Western Service Center. The Chief of the Legalization Appeals Unit, now the Administrative Appeals Office (AAO), remanded the case for further action. The District Director, Los Angeles, California, subsequently denied the application and the matter is now before the AAO on appeal. The appeal will be dismissed.

The district 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.

On appeal, the applicant reiterates his claim that he performed at least 90 man-days of qualifying agricultural employment during the requisite 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, provided he is otherwise admissible under section 210(c) of the Act and is not ineligible under 8 C.F.R. § 210.3(d). An applicant has the burden of proving the above by a preponderance of the evidence. 8 C.F.R. § 210.3(b).

On the I-700 application, the applicant indicated that he last entered the United States on October 30, 1985. He claimed 48 man-days picking oranges for [REDACTED] at Anxious Acres in Kern, California, during the period from November 2, 1985 to January 9, 1986, and 49 man-days cultivating oranges for [REDACTED] at Goerhing Citrus in Kern, California, during the period from January 11, 1986 to March 16, 1986, a total of 97 man-days. In support of his claim, the applicant submitted a Form I-705 affidavit and a notarized letter of employment, both signed by farm labor contractor [REDACTED]. [REDACTED] indicated that the applicant worked for him for 48 man-days picking oranges at Anxious Acres in Kern, California, from November 2, 1985 to January 9, 1986 and for 49 man-days pruning oranges at Goehring Citrus in Kern, California, from January 11, 1986 to March 16, 1986.

During his interview on June 30, 2006, the applicant claimed that he first entered the United States without inspection in December 1984. He stated that he started working for [REDACTED] picking oranges in December 1984. This statement contradicts his statement on the Form I-700 that he began working for [REDACTED] on November 2, 1985. It also contradicts [REDACTED]'s statement on his Form I-705 affidavit that the applicant began working for him on November 2, 1985. The applicant has not provided any explanation for this contradiction in his claimed dates of employment for [REDACTED].

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. Further, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

On July 31, 2007, the district director informed the applicant of her intent to deny the application because he had not established that he performed at least 90 man-days of qualifying agricultural

employment during the requisite period. The district director informed the applicant that his testimony during his interview that he first entered the United States in December 1984 contradicted his statement on the Form I-700 that he first entered the United States without inspection on October 30, 1985, and worked for [REDACTED] from November 2, 1985 through March 16, 1986. The district director granted the applicant 30 days to submit evidence to address this discrepancy. The applicant, in response, stated that he first entered the United States in November 1984 and worked in the fields from December 1984 through May 1986.

The applicant submitted affidavits dated May 25, 1992 from [REDACTED] and [REDACTED]. The affiants both state that they worked with the applicant at different farms during the 1985/1986 season, including picking oranges and lemons for farm labor contractor [REDACTED] at Rio Bravo Ranch.

The testimony from [REDACTED] and [REDACTED] that they worked with the applicant at Rio Bravo Ranch contradicts the applicant's claim on the Form I-700 and [REDACTED]'s testimony in his employment affidavits. The applicant and [REDACTED] both state that the applicant worked for [REDACTED] at Anxious Acres and Goehring Citrus. Neither the applicant nor Mr. [REDACTED] made any mention of Rio Bravo Ranch. The applicant has not provided any explanation for these discrepancies regarding his claimed employment during the requisite period.

The director denied the application because the applicant failed to credibly establish that he performed at least 90 man-days of qualifying agricultural employment during the eligibility period.

On appeal, the applicant reiterates his claim that he performed at least 90 man-days of qualifying agricultural employment during the requisite period. The applicant does not provide any additional evidence to corroborate his claim of 97 man-days of qualifying agricultural employment during the requisite period. Nor has he provided any evidence to overcome the adverse evidence regarding his claim of qualifying agricultural employment for [REDACTED] during the requisite period.

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).

Given the contradictions between the applicant's statements on his Form I-700 and his testimony during his interview, and his reliance on documents with minimal probative value, 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.