

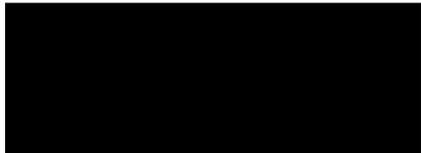
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U.S. Department of Homeland Security  
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U.S. Citizenship  
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Services

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FILE: [Redacted]  
XST 88 149 03151

Office: CALIFORNIA SERVICE CENTER Date:

**OCT 10 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. Any further inquiry must be made to that office.

Robert F. 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, remanded by the Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO). The Director, California Service Center, reopened and denied the application again. The matter is now before the AAO on appeal. The appeal will be dismissed.

The directors 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 acquired by the legacy Immigration and Naturalization Service (INS) relating to the applicant's claim of employment for [REDACTED]

On appeal, from the initial decision, the applicant reasserted the veracity of his employment claim. The applicant asserted except for his own personal testimony, he had not additional evidence to provide.

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 Immigration and Nationality 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 104 man-days of qualifying agricultural services for [REDACTED] from May 1985 to December 1985. In support of the claim, the applicant submitted a Form I-705 affidavit and an employment statement, both purportedly signed by farm labor contractor [REDACTED]

On June 30, 2000, the LAU remanded the case as the record did not contain a Notice of Intent to Deny, which advised the applicant of the adverse evidence regarding his employment claim pursuant to 8 C.F.R. § 103.2(b)(16)(i).

On October 5, 2004, the director withdrew the previous decision, reopened the proceedings, and issued a Notice of Intent to Deny. The applicant was advised that on April 13, 1989 [REDACTED] pled guilty to providing fraudulent Form I-705 affidavits. In a plea agreement dated August 3, 1989, [REDACTED] stated that he provided approximately 170 Forms I-705 to persons applying under the special agricultural worker program. The plea agreement contains two lists reviewed by [REDACTED]. The first list contains the names of those individuals identified by [REDACTED] as having worked for him during the twelve-month period preceding May 1, 1986. The second list contains the names of individuals for whom [REDACTED] stated that he had no personal knowledge or present recollection as to whether these applicants qualify for legalization under the special agricultural worker program. He indicated that he believed each affidavit supporting a name on this list contained a false, fictitious or fraudulent statement. The applicant's name appears on the second list.

The applicant was granted thirty days to respond. The notice, which was sent to the applicant's address of record, was returned by the postal service as undeliverable. The director concluded the applicant had not overcome the derogatory evidence, and denied the application on January 24, 2005. The Notice of Decision was sent to the same address as the Notice of Intent to Deny via certified mail. The record contains a postal return receipt which was signed by the applicant, acknowledging receipt of the denial notice.

The applicant, however, has not addressed the subsequent Notice of Decision or submitted any evidence to overcome the director's findings.

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. S-87-1064-JFM (E.D. Cal.).

The derogatory information obtained by the legacy INS 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.

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.