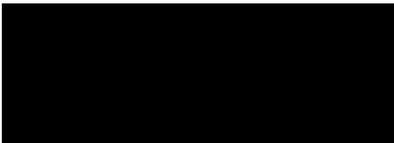


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U.S. Department of Homeland Security  
Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass, 3/F  
425 I Street N.W.  
Washington, D.C. 20536



DEC 16 2003

FILE



Office: California Service Center

Date:

IN RE: Applicant:



APPLICATION: Application for Temporary Resident Status pursuant to Section 210 of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT: Self-represented

Identifying data deleted to  
prevent invasion of personal privacy

INSTRUCTIONS:

Attached is the decision rendered on your appeal. The file has been returned to the Service Center that processed your case. If your appeal was sustained, or if your case was remanded for further action, the Service Center will contact you. 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, Director  
Administrative Appeals Office

**PUBLIC COPY**

**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 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 Service (now Citizenship and Immigration Services, or CIS) relating to the applicant's claim of employment for Victor Flores.

On appeal, the applicant reaffirmed his claim of employment for Victor Flores. The applicant also requested a copy of the record of proceedings.

The record shows that the AAO remanded the matter in order to comply with the applicant's request for a copy of the record. The Director, California Service Center, subsequently complied with the request and mailed a copy of the record to the applicant on July 23, 2003. However, as of the date of this decision, the applicant has failed to submit any additional material to supplement his appeal. Therefore, the record shall be considered complete.

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 (INA) 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 106 man-days cultivating onions for Victor Flores in Walla Walla, Washington during the qualifying period from May 1, 1985 to May 1, 1986.

In support of the claim, the applicant submitted a Form I-705 affidavit and a separate employment statement, both purportedly signed by farm labor contractor Victor Flores.

In attempting to verify the applicant's claimed employment, CIS acquired information which contradicted the applicant's claim. Victor Flores pled guilty to document fraud charges, and subsequently provided a list of persons to whom he had provided Form I-705 affidavits. The applicant is not named on this list. Furthermore, the signatures on the applicant's documents differ visibly and significantly from authentic exemplars of Mr. Flores' signature. The omission of the applicant's name from this list, together with the signature discrepancy, indicate that the applicant did not obtain employment documents from Victor Flores.

The applicant's documents are therefore of questionable authenticity.

On February 18, 1992, CIS attempted to advise the applicant in writing of the adverse information obtained by CIS, and of CIS's intent to deny the application. However, the record shows that the notice of intent to deny was returned by the United States Postal Service marked as "attempted unknown." The record further shows that the applicant subsequently received a copy of this notice and the adverse information contained therein, as he included a copy of the notice with his appeal.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application.

On appeal, the applicant reaffirmed his claim of employment for Victor Flores, but acknowledged that he was not present when Mr. Flores purportedly signed his employment documentation. The fact that the applicant admits he was not present when his employment documentation was signed only serves to provide more doubt regarding the authenticity of such employment documentation. In addition, the applicant has failed to submit any further employment documentation from Mr. Flores. Nor has the applicant provided an explanation as to why he was unable to provide such additional documentation if in fact he had worked for Mr. Flores as claimed.

Generally, the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and amenability to verification as stated in 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 alleged signatures of Victor Flores on the applicant's documents do not match authentic exemplars obtained by CIS. Mr. Flores, in his statement to CIS, did not acknowledge providing employment documentation to this applicant. This derogatory information calls into question the origin and authenticity of the applicant's documentation. The applicant has not overcome such

derogatory evidence. Therefore, the employment documents submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has failed to establish credibly 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.