U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

L-4

[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: AUG 0 3 2004

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, Director
Administrative Appeals Office

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DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Northern Regional Processing Facility, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The facility director found that had not worked at Kansas City Produce (KCP) as supervisors as claimed, and therefore could not attest to anyone's employment there. The director concluded that the applicant, whose application was supported by affidavits from had not worked a

On appeal, the applicant points out that is no longer operative, and the business records are unavailable.

In order to be eligible for temporary resident status under section 210 of the Act an alien must have engaged in qualifying agricultural employment for at least 90 days during the twelve-month period ending May 1, 1986. *See* 8 C.F.R. § 210.3(a).

The applicant submitted an undated Form I-705 affidavit from attesting to the applicant's employment at KCP for approximately 140 days from May 29, 1985 to October 15, 1985. Mr. Rocha indicated he was a foreman, and the applicant's immediate supervisor. in his affidavit, stated that he was a farm field foreman in charge of all payroll. He attested to the applicant's employment, and stated that all farm records had been destroyed because of the closure of the company due to bankruptcy. The applicant also furnished:

1. Two affidavits from dated May 23, 1988 and January 18, 1989. He stated that the applicant resided with him from May to October 1985, but mentioned that the applicant stayed in various trailers on the days when he worked on the actual property of He explained that he knew the applicant worked a because the applicant talked about it and because he dropped the applicant off at work once.

2. A January 19, 1989 affidavit from stating that he worked side by side with the applicant a during the required period. He explained that he and the applicant stayed in an old bus parked on property.

3. The applicant's own affidavit, dated February 16, 1989, explaining in detail how he entered the United States in February 1985 and immediately hopped a train to Kansas City. He stated that he worked at KCP from May to October, and in its warehouse in November. He provided more details about his subsequent trips to the United States, and different jobs that he held. In a long letter dated February 5, 1991, he reiterated his employment claim and stated that he now understood that Tom Tanaka was the owner of the land and that he had several people in charge of hiring and dismissing people at the warehouse and the grounds. He stated that they were and He explained tha paid the workers in cash, and that was also known as . He indicated that affiant his coworker, received his resident card.

4. A January 19, 1989 affidavit fro attesting to having worked with the applicant at He said the applicant stayed at and would talk about the person he stayed with when in Kansas City.

5. An August 28, 1989 affidavit from said to be a property and business owner, indicating that the applicant was his employee at from May to August 1985.

6. Photocopies of nine affidavits from individuals attesting to having worked for Gilbert Rocha during the required period.

The facility director, in denying the application, indicated that , the owner of had stated that had not worked for in 1985-86. The director relied on an investigative report that indicated that had stated that, *to the best of his knowledge* a never worked for By virtue of the fact that qualified his alleged statement by saying "to the best of my knowledge," it must be concluded that he was not sure.

The facility director also stated that the payroll records confirmed that did not work for KCP. It is not clear that the payroll records that the director reviewed included all of the field workers. Outstanding evidence, some of which has now been entered into this record, has been provided in other KCP cases which demonstrates that actually ran the farming operation during the required period, and that were supervisors there during the entire time.

Although hundreds of aliens filed applications claiming to have worked at KCP, the applicant is one of a relatively small group of applicants who have presented evidence from three different KCP supervisors. He also is one of only a few that provided such a comprehensive explanation of his work history.

An alien applying for special agricultural worker status has the burden of proving by a preponderance of evidence that he or she worked the requisite number of man-days in qualifying employment. He or she may meet this burden by providing documentation sufficient to establish the requisite employment as a matter of just and reasonable inference. *See* 8 C.F.R. § 210.3(b).

Given the evidence and explanations provided by the applicant, it is concluded that he did indeed work at KCP during the qualifying period. The applicant has met his burden of proof.

ORDER: The appeal is sustained.