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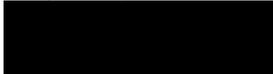
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042.  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services



FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

IN RE:

Applicant:



DEC 22 2004

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

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

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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44

**DISCUSSION:** The application for temporary resident status as a special agricultural worker was denied by the Director, Western Regional Processing Facility. It was reopened and denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The directors denied the application because the applicant failed to establish that she performed at least 90 man-days of qualifying agricultural employment during the eligibility period. These decisions were based on adverse information acquired by the Immigration and Naturalization Service (the Service) relating to the applicant's claim of employment for [REDACTED]

On appeal to the first decision, the applicant reaffirmed her claim to have performed qualifying agricultural employment under the supervision of [REDACTED]. She indicated that she could not provide more proof because she was unable to locate him. The applicant did not receive the notice of intent to deny and the denial notice from the center director, and therefore did not respond to the second denial.

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). 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 application, Form I-700, the applicant claimed to have performed the following employment for labor contractor Pedro Aguirre:

- (1) 50 man-days cutting asparagus for [REDACTED] in Imperial, California, from January 1986 to February 1986; and
- (2) 70 man-days thinning and weeding sugar beets and lettuce for [REDACTED] California, from September 1985 to December 1985.

In support of the claim, the applicant submitted a corresponding I-705 affidavit purportedly signed by [REDACTED]

Subsequently, in the course of attempting to verify the applicant's claimed employment, the Service acquired information which directly contradicts the applicant's claim. Specifically, the Service received a letter from the payroll secretary for labor contractor Fernando Flores, indicating that [REDACTED] worked for Mr. [REDACTED] for 14 days between May 27, 1985 and June 17, 1985, and 5 days between February 20, 1986 and February 24, 1986. These letters were accompanied by photocopies of corresponding work records and earnings statements.

In addition, on July 20, 1988, Pedro Aguirre executed a sworn statement in which he confirmed the statements of [REDACTED] payroll secretary. Mr. [REDACTED] further admitted that he never worked for

[REDACTED] that all I-705 affidavits signed by him were fraudulent and that he had no personal knowledge as to whether the applicants in question were eligible for special agricultural worker status.

In the facility director's decision the applicant was advised in writing of the adverse information obtained by the Service. On appeal to that decision the applicant reiterated that she had worked for Mr. [REDACTED]

The center director reopened the matter and reissued the facility director's notice as a "notice of intent to deny." The applicant did not receive this issuance, and did not receive the center director's final denial.

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 fact that Mr. [REDACTED] the applicant's alleged employer, admitted that all I-705 affidavits signed by him were fraudulent directly contradicts the applicant's claim. The applicant has not overcome such adverse evidence. The applicant could have worked with Mr. [REDACTED] for a maximum of 19 days during the qualifying period, as described above.

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.