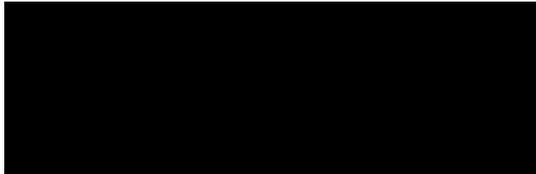




U.S. Citizenship
and Immigration
Services

LM



FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **OCT 22 2004**

IN RE:

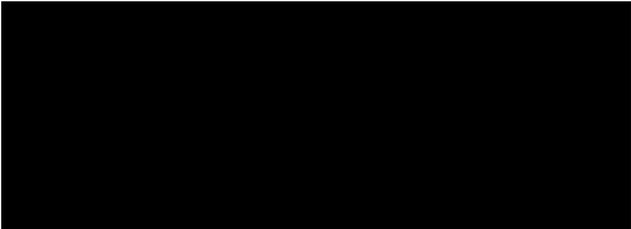
Applicant:



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:



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

PUBLIC COPY

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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 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 regarding the applicant's claim of employment for [REDACTED]

On appeal the applicant reaffirms her employment claim, and raises questions about the adverse information upon which the director relied.

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 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 to have performed 90+ man-days of qualifying agricultural employment for [REDACTED] at Pleasant Valley in Ventura County from November 2, 1985 to March 29, 1986.

In support of the claim, the applicant submitted two corresponding affidavits from [REDACTED] who identified himself as a foreman. [REDACTED] indicated that records revealed the applicant worked at Pleasant Valley as claimed.

In attempting to verify the applicant's claimed employment, the Immigration and Naturalization Service, or the Service (now, Citizenship and Immigration Services, or CIS) acquired information which contradicted the applicant's claim. Specifically, [REDACTED] personnel clerk at Pleasant Valley, was contacted telephonically, and she indicated that Pleasant Valley had no employment records relating to [REDACTED]

The applicant was advised in writing of the adverse information obtained by the Service, and of the Service's intent to deny the application. The applicant was granted thirty days to respond. In response, counsel stated that the applicant had attempted to find [REDACTED] in order to acquire further verification, but was unable to do so.

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

On appeal, the applicant provides copies of the affidavits from [REDACTED] and reiterates that one affidavit was notarized. She suggests that information provided on the telephone is inherently unreliable. She also speculates that the employer did not want to admit that it had paid its employees in cash.

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.).

[REDACTED] indicated that he was a foreman, and that records support the applicant's claim of employment. Yet, the supposed records of the applicant's employment have not been submitted in this proceeding. Furthermore, the personnel clerk stated that there are no records of [REDACTED] employment. This leads to a conclusion that he was not qualified to attest to the applicant's claimed employment. The applicant has not provided any evidence, from the employer or anyone else, that contradicts this adverse information.

The applicant has, therefore, failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the twelve-month statutory period ending May 1, 1986. Consequently, she 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.