



U.S. Citizenship
and Immigration
Services

LM



FILE: [Redacted]

Office: CALIFORNIA SERVICE CENTER

Date: OCT 27 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

identifying data deleted to
[Redacted] granted

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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 relating to the applicant's claim of employment for Jesus Camacho at Rio Bravo Ranch.

On appeal, the applicant provides a new statement from [REDACTED]

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 worked 96 man-days picking citrus fruits for farm labor contractor [REDACTED] at Rio Bravo Ranch in Kern County, California from October 1985 to February 1986. In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment statement, purportedly signed by [REDACTED]. These documents indicated the applicant's employment began on October 30, 1985 and ended on February 28, 1986.

In attempting to verify the applicant's claimed employment, the director acquired information that contradicted the applicant's claim. The payroll secretary of Nickel Enterprises, parent company of Rio Bravo Ranch, stated that [REDACTED] contract expired in January 1986 and that [REDACTED] did not provide any workers after that date. This information has since been corroborated by the operations manager of Nickel Enterprises, who asserted that [REDACTED] employment at Rio Bravo Ranch's **farming operations** ended January 15, 1986.

The director also noted that the purported signature of [REDACTED] on the affidavits did not appear to resemble his authentic signature, seemingly casting further doubt on the credibility of the affidavits.

On April 3, 1991 the applicant was advised in writing of the adverse information, and of the director's intent to deny the application. The applicant was granted thirty days to respond. In response to the notice, the applicant indicated that he needed to go see [REDACTED] personally, and requested a 30-day extension of time to do so. He had not submitted anything further when the director denied the application about 90 days later.

On appeal a new statement, purportedly from [REDACTED] states, "As indicated previously on the submitted I-705 form, this person was employed from J&M Farm Labor contractors." (The name J&M refers to [REDACTED] and [REDACTED].) This statement appears to be a "form letter" statement, as Mr. [REDACTED] incorrectly refers to the applicant as having failed to respond to the notice of intent to deny because he never received the notice. [REDACTED] also refers to the applicant as "he/she" and "his/her" throughout the statement.

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 signature of [REDACTED] appearing on the affidavits is not significantly different than the known exemplar of his signature. Furthermore, it is noted that the last statement submitted from [REDACTED] was notarized, theoretically indicating that he demonstrated his identity during that process. It is concluded that, in the absence of a forensic examination which indicates the signatures are not authentic, this not a valid basis for denial.

However, officials of Nickel Enterprises have stated that [REDACTED] did not work at Rio Bravo Ranch after January 15, 1986. While the applicant and [REDACTED] claim the employment went well beyond that date, they have not provided any independent evidence to establish that.

It is noted that, in a letter dated November 5, 1993, the operations manager of Nickel Enterprises informed the Service that, according to their records, [REDACTED] supplied labor for our farming operations at various times during the period May 1, 1985 through May 1, 1986 . . . Since (January 15, 1986), they were no longer used to provide labor service for Rio Bravo Ranch . . . they provided labor to Rio Bravo Ranch a total of 77 days, from May 1, 1985 to January 15, 1986."

The above letter indicates that Rio Bravo Ranch did, in fact, consist of more than one farming operation, and that [REDACTED] did provide labor for these operations. However, the credibility of the applicant's claim is undermined by [REDACTED] statement that the Camachos provided labor to Rio Bravo's farming operations for less than 90 days during the qualifying period, and that the Camachos did not provide any labor to the farm after January 15, 1986.

Even if it were to be concluded that the applicant did work for [REDACTED] it could not be concluded that he worked at least 90 days for another reason. The period from October 30, 1985 to January 15, 1986 does not encompass 90 days.

The applicant has 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, he 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.