

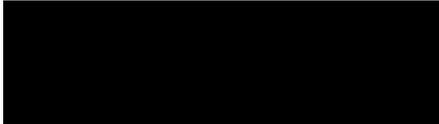
Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



L4

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: JUL 08 2005

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. 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, 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

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 relating to the applicant's claim of employment for [REDACTED]

On appeal, the applicant requested a copy of his legalization file. Citizenship and Immigration Services (CIS) complied with the request on August 14, 2004. The applicant resubmitted a copy of his personal declaration and submitted a witness affidavit.

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 a total of 104 man-days of qualifying agricultural services for [REDACTED] from May 1, 1985 to November 1, 1985.

In support of the claim, the applicant submitted a Form I-705 affidavit and an employment statement, both purportedly signed by farm labor contractor [REDACTED]

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. On April 13, 1989, [REDACTED] pled guilty to providing fraudulent Form I-705 affidavits. In a plea agreement dated August 3, 1989, [REDACTED] stated that he provided approximately 170 Forms I-705 to persons applying under the special agricultural worker program. The plea agreement contains two lists reviewed by [REDACTED]. The first list contains the names of those individuals identified by [REDACTED] as having worked for him during the twelve-month period preceding May 1, 1986. The second list contains the names of individuals for whom [REDACTED] stated that he had no personal knowledge or present recollection as to whether these applicants qualify for legalization under the special agricultural worker program. He indicated that he believed each affidavit supporting a name on this list contained a false, fictitious or fraudulent statement.

On April 24, 1991, 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. The applicant submitted a personal declaration in which he stated that he contacted [REDACTED] in order to acquire additional evidence to corroborate his employment, but that [REDACTED] informed him that he was not going to issue any more employment letters because of "problems with the Immigration Department." The affiant reaffirmed his claimed employment.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on August 9, 1991.

On appeal, the applicant submitted a witness affidavit from [REDACTED] who stated that he has known the applicant since 1985 and that the applicant was employed as a laborer in the San Joaquin Valley from 1985 to 1986.

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 affidavit from [REDACTED] fails to provide the name of the employer, the type of work performed or the specific dates of the purported 1985 and 1986 employment. Therefore, the affiant's statement is of little probative value to the applicant's claim to eligibility. Further, the derogatory information obtained by the Service regarding [REDACTED] directly contradicts the applicant's claim. The applicant has not overcome such derogatory evidence. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

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.