

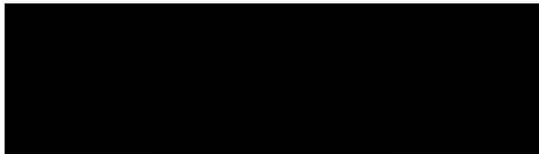
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U.S. Department of Homeland Security
20 Mass. Avenue, N.W., Rm. A3000
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U.S. Citizenship
and Immigration
Services

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FILE:

XEM-89-062-5055

Office: CALIFORNIA SERVICE CENTER

Date: JUN 29 2006

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. 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, Chief
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 case will be remanded for further consideration and action.

The director determined that the documentation submitted by the applicant did not credibly establish the applicant's claimed employment. This conclusion was based on adverse information obtained from Service attempts to verify the applicant's claimed employment.

The applicant was duly advised of derogatory evidence acquired by the Service prior to the issuance of the decision. Specifically, the director indicated that [REDACTED] secretary for Furukawa Farms, had provided the Service with the "1986 Independent Contract Growers List," which identified the growers who were contracted by Furukawa Farms during the period from October 1, 1985 to approximately August 12, 1986. The director noted that [REDACTED], the applicant's purported employer, was not on this list.

However, there is no corresponding list for the previous growing season from October 1984 to August 1985. Because the applicant claimed to have worked from May 1985 to August 1985, the possibility remains that the applicant could have worked 90 days from May 1985 to August 1985. The record does not indicate that the director attempted to verify the identities of the growers during this earlier season.

In light of the above, the adverse evidence contained in the file does not appear sufficient to disprove the applicant's claim.

If any further information is acquired which is adverse to this applicant's claim, the director shall incorporate all such evidence into the record of proceeding. The director shall also advise the applicant of such adverse evidence and allow the applicant an opportunity to submit evidence in rebuttal before a new decision is rendered. Should the new decision be adverse, the applicant shall be permitted to file an appeal without a fee.

ORDER: The case is remanded for appropriate action and decision consistent with the foregoing.