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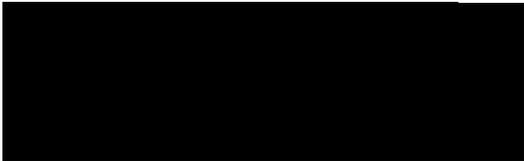
U.S. Department of Homeland Security  
20 Mass. Avenue, Rm. A3042  
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U.S. Citizenship  
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **MAR 30 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:

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] at [REDACTED] and/or [REDACTED] and/or [REDACTED].

On appeal, the applicant requests an additional 90 days to acquire and submit evidence to corroborate his employment claim.

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 picked bell peppers and grapes for a total of 191 man-days from August 1985 to March 1986 for [REDACTED] in San Joaquin County, California.

In support of the claim, the applicant submitted a Form I-705 affidavit and a separate employment letter claiming 95 man-days employment for [REDACTED] under the supervision of [REDACTED] and 96 man-days employment harvesting grapes and bell peppers for [REDACTED]. Mr. [REDACTED] stated that the applicant was paid in cash.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. In a letter to the Service dated April 10, 1989, [REDACTED] confirmed that [REDACTED] had been his foreman but added that "(t)he only crop I have ever grown is grapes." The applicant claimed to have worked in grapes and bell peppers. Further contact with the farm revealed that Mr. [REDACTED] maintained records on all his employees.

In addition, in a letter dated June 5, 1989, [REDACTED] informed the Service that his vineyard began operating in 1986, and during August of that year the vineyard "hired a dozen people for 4 to 6 days to pick the grapes and in December, again, a dozen people for 6 days to do the pruning." Mr. [REDACTED] indicated the vineyard has "no other employees. Wages have always been paid by check." It is apparent no farm workers were employed by Mr. [REDACTED] during the qualifying period.

On September 12, 1989, [REDACTED] pled guilty to document fraud charges. As part of his plea agreement, Mr. [REDACTED] provided a list of individuals who had actually worked for him. The applicant is not named on this list.

On September 20, 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 record does not contain a response from the applicant.

The director determined the applicant had failed to overcome the adverse evidence, and denied the application November 12, 1991. On appeal, the applicant requests an additional 90 days to acquire and submit evidence to corroborate his employment claim. To date, no additional evidence has been forthcoming.

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.)*.

maintained records on his employees and has never grown bell peppers as claimed on the applicant's documentation. [REDACTED] always pays employees by check, and did not employ any farm workers during the qualifying period. [REDACTED], the applicant's purported employer, admitted in court documents that the applicant's documents are false. The applicant has provided no credible evidence or statement to overcome the above derogatory evidence which directly contradicts his claim. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has failed to establish credibly 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.