

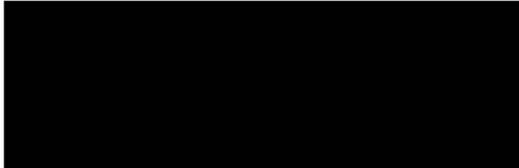
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**U.S. Citizenship  
and Immigration  
Services**

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: MAR 31 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, then remanded by the Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO). The matter is now before the 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].

On appeal, the applicant reaffirmed his claimed employment stating that he had talked with his former employer several times since receiving the decision to deny his case. The applicant did not submit any additional evidence to support his 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 114 man-days of qualifying agricultural employment for [REDACTED] at [REDACTED] from May 1985 to May 19, 1986.

In support of this claim, the applicant submitted a corresponding Form I-705 affidavit along with a separate employment letter, both purportedly signed by [REDACTED] who is represented as a farm labor contractor. The applicant indicated that he worked under the alias [REDACTED].

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. On November 15, 1989, [REDACTED], bookkeeper and custodian of payroll records for [REDACTED], stated that [REDACTED]'s only employment with [REDACTED] during the qualifying period occurred from May 1, 1985 through July 15, 1985. It is noted that this period consists of only 76 man-days during the requisite qualifying period. In this case, the applicant claimed to have worked under Mr. [REDACTED] at [REDACTED] from May 1985 through May 1986, a period of time during which [REDACTED] was not employed by [REDACTED] after July 1985.

In addition, Ms. [REDACTED] stated that Mr. [REDACTED] was never employed as a farm labor contractor by [REDACTED] Farms, and he did not have access to company payroll records. Therefore, he would have been unable to verify the number of days a company employee worked.

On November 6, 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 letter purportedly signed by [REDACTED] in which he stated that he was employed at [REDACTED] from November 1983 to July 1986. The applicant also submitted a letter of residence.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application January 6, 1992. On appeal, the applicant reaffirmed his claimed employment stating that he had talked with his former employer several times since receiving the decision to deny his case.

The applicant requested a copy of his legalization file. On March 6, 1995, the case was remanded for compliance with the applicant's request. The Service complied with the request on February 9, 2005.

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.)*.

Service investigation revealed that [REDACTED] did not work at [REDACTED] after July 15, 1985, and that Mr. [REDACTED] never worked as a farm labor contractor at that establishment. This evidence directly contradicts the applicant's claim of employment at [REDACTED] for Mr. [REDACTED] from May 1985 to May 1986. The applicant has not overcome this derogatory evidence. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

Further, it must be noted that the Service conducted a forensic analysis of the signatures on the applicant's supporting documentation and that analysis determined that the applicant's documents were most probably not signed by [REDACTED]

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.