



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE:

Office: CALIFORNIA SERVICE CENTER

Date: MAR 31 2006

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:

[REDACTED]

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 then remanded by the Administrative Appeals Office (AAO). The matter was denied again by the Director, California Service Center and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director finally 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 stated that he had not received any information regarding his application. The applicant stated that he worked for more than one employer and that he could obtain proof of such employment.

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 performed 101 man-days of employment for [REDACTED] at [REDACTED] in Blythe County, California from to October 1985 to January 1986.

In support of this claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment declaration, both purportedly signed by [REDACTED] who identified himself as a foreman.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. The Service obtained the payroll records of [REDACTED] these records indicate that [REDACTED] worked no more than 58 days for the farm during the qualifying period from January 10, 1986 to March 8, 1986.

The record does not contain a copy of the initial Notice of Decision, issued November 25, 1991. Consequently, the case was remanded by the AAO for the inclusion of a copy of that decision or a new decision fully addressing the adverse evidence into the record of proceedings..

On January 9, 2003, the application was reopened and the Director, California Service Center, rendered a new decision. The record does not contain a response to the Service's final notice.

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.)*.

According to farm records [REDACTED] worked at [REDACTED] for less than 59 days during the qualifying period, during a period that did not coincide with the applicant's claimed employment, and therefore would not have been in a position to attest to the applicant's claimed man-days. The applicant has not addressed nor overcome this derogatory evidence which directly contradicts his claim. Therefore, the documentation 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.