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



U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

NOV 09 2005

Date:

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 Legalization Office, Bakersfield, California, reopened and denied again by Director, California Service Center. The matter is now before the Administrative Appeals Office appeal (AAO). The appeal will be dismissed.

The legalization office and the director denied the application because the applicant failed to establish that he performed at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on information provided by [REDACTED] for whom the applicant claimed to have worked.

On appeal, the applicant from the initial denial, the applicant reaffirmed his claimed employment stating that he had no additional proof of his employment because he was always paid in cash.

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, provided he is otherwise admissible under section 210(c) of the Act and is 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 application, Form I-700, the applicant claimed to have performed 102 man-days harvesting grapes for [REDACTED] in Kern County, California from to May 1985 to May 1986.

In support of the claim, the applicant submitted an employment statement purportedly signed by [REDACTED]. The applicant also submitted a number of tickets for thinning, weeding and blocking crops other than the grapes claimed by the applicant on his application and his employment letter.

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. On January 4, 1988, in United States District Court, Southern District of California, [REDACTED] pled guilty to violating one count of 18 U.S.C. 1001 and 2, aiding and abetting false statements and writings used in support of applications filed for special agricultural worker status.

[REDACTED] was informed that the Service received more than 2,200 Special Agricultural Worker applications from individuals who allege to have worked for [REDACTED] in Kern County, California. On April 10, 1990, [REDACTED] provided a voluntary sworn statement "to assist this agency in clearing up problems that I and persons signing my name to these employment affidavits have created." In his statement, Mr. [REDACTED] stated that the only work he performed in the years 1985 and 1986 relating to grapes was to rent tractors to harvesting crews and to periodically check these tractors for needed repairs. Mr. [REDACTED] further stated that the only agricultural workers that he employed in the years 1985 and 1986 was a crew of 35 individuals that he hired from the local Bakersfield, California area. Mr. [REDACTED] employed these workers to harvest cotton, and he did not sign any employment verification letters or I-705 affidavits for any of his cotton harvesting crew, as they were all legal residents of the United States.

[REDACTED] specified that each and every employment verification letter and Form I-705 that indicates [REDACTED] or [REDACTED] as the affiant is false, fictitious, and fraudulent. Mr. [REDACTED] also advised the Service that he was aware of other individuals who signed verification letters using the name [REDACTED] or [REDACTED] and that these signed documents represent a forgery of his name and should also be considered false, fictitious, and fraudulent.

On March 25, 1988, the legalization office denied the application. The applicant filed an appeal of that decision. Subsequently, the application was reopened.

On July 16, 1990, 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 to that notice by the applicant.

The center director concluded the applicant had failed to overcome the adverse information, and denied the application October 18, 2004. The record does not contain a response to the decision by the applicant.