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U.S. Citizenship
and Immigration
Services

L6

FILE:

Office: CALIFORNIA SERVICE CENTER

Date: NOV 10 2005

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 Group 2 special agricultural worker was denied by the Director, Western Service Center, remanded by the Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO) and denied again by the Director, California Service Center. The matter now before the AAO on appeal. The appeal will be dismissed.

The directors denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the statutory period.

On appeal from the initial decision, the applicant stated that he also worked for other contractors during the qualifying period and that he needed more time to acquire documentation regarding that 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, 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 4000 days worked for [REDACTED] California from May 1968 to December 22, 1986. In support of his claim, the applicant submitted pay records for the years 1981, 1982 and 1986. The pay records for 1986 indicate that the applicant had earnings beginning in July 1986.

In response to a Service request for additional information, the applicant submitted a Form I-705 affidavit signed by [REDACTED] which failed to specify any specific number of man-days worked during the qualifying period, but referred to employment records accompanying the Form I-705. Those photocopied employment records had been previously submitted by the applicant.

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 statutory period. On appeal, the applicant reaffirmed his claimed employment in agriculture

Subsequently, the LAU remanded the case because the director had failed to consider the additional evidence submitted by the applicant prior to the rendering of his decision. Thereafter, the director issued a new decision on October 19, 2001, having considered all the documentation submitted throughout the application process.

The applicant's claimed employment occurred outside the qualifying period May 1, 1985 to May 1, 1986. The applicant has not documented that he performed agricultural employment during the eligibility period. Consequently, the applicant is statutorily 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.