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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: JUN 21 2005

IN RE:

Applicant:

APPLICATION:

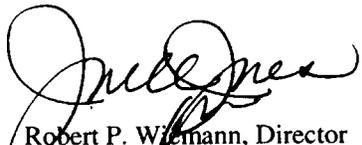
Application for Status as a Temporary Resident pursuant to Section 210 of the
Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

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 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 statutory period. The director concluded the applicant worked no more than 55 days during the required period.

On appeal, reaffirmed his claimed employment in agriculture..

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).

On the application, Form I-700, the applicant claimed 55 man-days employment harvesting tree fruit for [REDACTED] in [REDACTED] California from July 1985 to September 1985. The applicant also claimed non-qualifying employment at [REDACTED] beginning in August 1986, which is subsequent to the qualifying period ending May 1, 1986. In support of his claim, the applicant submitted an employment verification letter and a payroll history statement reflecting his employment for [REDACTED]. The payroll history reflected that the applicant was paid from the week ending July 23, 1985 through the week ending September 24, 1985.

The director denied the application because the applicant had only established that he worked 55 days during the qualifying period.

On appeal, the applicant stated that he worked parts of some days, but was not given credit for working those days.

The applicant must have worked a minimum of 90 man-days during the qualifying period May 1, 1985 to May 1, 1986. A man-day is defined as the performance of at least one hour's work in a twenty-four hour period. In viewing the applicant's employment in the most favorable light and giving him credit for working seven days in each of the weeks he had earnings [REDACTED] the applicant could have worked no more than 70 days, which is twenty days short of the required minimum of 90 man-days.

The applicant's claimed employment of 55 days does not meet the minimum requirement of at least 90 man-days of agricultural employment performed during the eligibility period ending May 1, 1986. 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.