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

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FILE:

XRV 88 067 02075

Office: CALIFORNIA SERVICE CENTER

Date: **MAY 03 2007**

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:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, and remanded by the Administrative Appeals Office (AAO). The Director, California Service Center, withdrew the previous decision, reopened the proceedings, and denied the application again. The matter is now before the AAO on appeal. The appeal will be dismissed.

The director initially denied the application because the applicant failed to furnish any supporting documentation to corroborate his employment claim.

On appeal, the applicant submitted employment documentation to support his employment claim.

In the subsequent decision, 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 the applicant's amended claim of employment submitted on appeal from the initial decision.

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 the alien is otherwise admissible under section 210(c) of the Immigration and Nationality 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 Form I-700 application, the applicant claimed employment with [REDACTED] in Sanger, California. The applicant, however, did not submit any evidence to support his employment claim.

At the time of his legalization interview on October 28, 1988, the applicant was issued a Form I-72, which requested that the applicant submit evidence to support his employment with [REDACTED]. The record does not contain a response.

On January 31, 1992, the director denied the application because the applicant had not submitted evidence to establish the performance of seasonal agricultural employment during the twelve-month eligibility period ending May 1, 1986.

On appeal, the applicant submitted a Form I-705 affidavit and an employment affidavit from [REDACTED] a foreman at Husson Farms, who indicated that the applicant worked 91 man-days harvesting lettuce from January 3, 1986 to April 8, 1986 at [REDACTED] in Yuma County, Arizona

It is noted that the director complied with the applicant's request for a copy of the record of proceedings April 9, 1993.

On December 15, 2000, the AAO remanded the case as the applicant had overcome the documentary deficiency mentioned in the director's decision.

On October 11, 2004, the Director, California Service Center, withdrew the previous decision, reopened the proceedings and issued a Notice of Intent to Deny. The applicant was advised that because he has put forth an **entirely new claim of eligibility serious questions of credibility had been raised.** The applicant was informed that no credible explanation had been presented as to why the employment with [REDACTED] was not advanced on his Form I-700 application, and that the instructions to said application encourage applicants to list multiple claims. The applicant was advised that without an reasonable and credible explanation his employment claim

with [REDACTED] would not be considered. The applicant was given 30 days to respond to the notice. The applicant, however, failed to submit a respond and on March 11, 2005, the director denied the application.

On appeal, counsel requested an extension of 60 days in which to supplement the appeal. However, two years later, no additional correspondence has been presented by the applicant or counsel.

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).

The applicant failed to demonstrate his eligibility with his initial claim due to lack of supporting documentation. The applicant has not provided an explanation for his amended claim put forth on appeal. Furthermore, the applicant's amended claim contradicts his claim on his Form I-700 application to have work in the state of California during 1986. As such, the credibility of said claim must be deemed questionable at best. Under these circumstances, it cannot be concluded the applicant has credibly established that he performed at least 90 man-days of qualifying agricultural employment during the statutory period ending May 1, 1986. Consequently, the applicant has not demonstrated his eligibility for temporary resident status as a special agricultural worker.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.