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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

L1



FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **JUL 30 2008**

XPO 89 032 04088

IN RE:

Applicant:



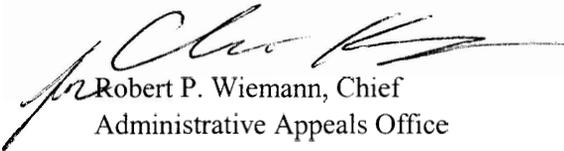
APPLICATION: Application for Temporary Resident Status under Section 210 of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** This matter is an application for temporary resident status as a special agricultural worker that was initially denied by the Director, Western Service Center and came before the Administrative Appeals Office (AAO) on appeal. The matter was remanded by the AAO and the application was subsequently denied again by the Director, California Service Center. The case is again before the AAO on appeal and the appeal will be dismissed.

The director initially 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 Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS) relating to the applicant's claim of employment for [REDACTED]

On appeal from the initial denial, the applicant reaffirmed his claim of qualifying agricultural employment for [REDACTED] and indicated that he had unsuccessfully attempted to obtain further documentation from [REDACTED]

The AAO remanded the case in order for the director to review the adverse information relating to the applicant's claim of agricultural employment for [REDACTED], inform the applicant of any additional adverse information and allow him an opportunity to respond, and issue a new decision. The director reviewed the adverse information acquired by the Service relating to the applicant's claim of employment for [REDACTED] and denied the application again.

On appeal from this most recent denial, the applicant reaffirms his claim of employment for [REDACTED]. The applicant states that he has never been a public charge and asks that he be allowed to remain in this country to support his wife and son.

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 Immigration and Nationality Act (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 118 days of employment cultivating strawberries for [REDACTED] at Cooperativa Central in Monterey, California from October 1985 to March 1986.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter, both purportedly signed by [REDACTED]

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which cast doubt on the credibility of the applicant's documentation. The purported signatures of [REDACTED] on the applicant's supporting documents are visibly and

significantly different from authentic exemplars of Service.

signature obtained by the

On April 1, 1992, the Service advised the applicant 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.

In response the applicant submitted a statement in which he asserted that an individual never signs his or her name in the exact same manner.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application for the first time on May 11, 1992.

On appeal from the initial denial, the applicant reiterated his claim of qualifying agricultural employment for [REDACTED] and indicated that he had unsuccessfully attempted to obtain further documentation from [REDACTED]

The record shows that the AAO subsequently remanded the case in order to allow the director an opportunity to review the adverse information relating to the applicant's claim of agricultural employment for [REDACTED] inform the applicant of any additional adverse information and allow him an opportunity to respond, and issue a new decision. The director reviewed the adverse information acquired by the Service relating to the applicant's claim of employment for [REDACTED] of which the applicant had already been informed, and denied the application again on November 10, 2007.

On appeal from this most recent denial, the applicant reaffirms his claim of employment for [REDACTED]. The applicant states that he has never been a public charge and asks that he be allowed to remain in this country to support his wife and son. Nevertheless, the applicant's statements on appeal are not sufficient to overcome the marked discrepancies between the purported signatures of [REDACTED] on his supporting documents and authentic exemplars of [REDACTED] signature obtained by the Service.

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. June 15, 1989).

The discrepancy noted by the director calls into question the origin and authenticity of the applicant's documentation. The applicant has not overcome this derogatory evidence. Therefore, the documentary evidence 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.