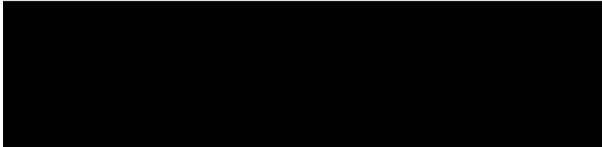


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FILE:



Office: TEXAS SERVICE CENTER

Date: JUL 11 2006

XAL-88-156-3032

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status as a Group 2 special agricultural worker was denied by the District Director, El Paso, Texas and then reopened and denied again by the Director, Southern Service Center. It was finally reopened and denied by the Director, Texas Service Center. The matter is now before the Administrative Appeals Office (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, the applicant stated he had moved and had a different address. The applicant submitted a letter signed by [REDACTED] who stated that the applicant worked on his ranch a minimum of 90 man-days each year since 1988. In a second letter [REDACTED] stated that the applicant worked on his ranch during the eighties. The record does not contain a response to the final decision denying the application.

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 115 man-days of employment planting chile for [REDACTED] in Lemitar, New Mexico from May 1984 to October 1984, and 1120 man-days of employment for [REDACTED] doing ranch work, which is non-qualifying, from October 1984 to May 1988 in Cuba, New Mexico. The applicant did not provide evidence of such employment. The applicant submitted a letter from Cuban Café asserting that the applicant had worked there since 1982 and a letter signed by [REDACTED] who stated that she has known and worked with the applicant since 1982.

On November 18, 1991 the director denied the application because the applicant had failed to submit evidence to corroborate his claimed employment or to establish that he had worked a minimum of 90 man-days during the qualifying period. On appeal, the applicant submitted evidence of non-qualifying employment. Subsequently, the application was reopened to afford the applicant a final opportunity to submit evidence to establish his eligibility. The record does not contain a response from the applicant. Thereafter, the director again denied the application.

The applicant has not documented that he performed qualifying 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.