



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
XDA-88-001-1012

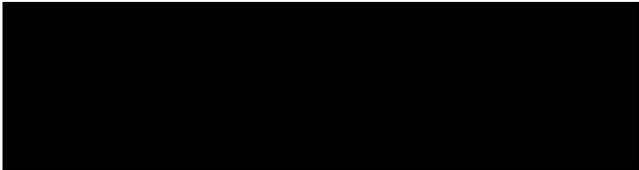
Office: TEXAS SERVICE CENTER

Date: JUL 18 2006

IN RE: Applicant: [REDACTED]

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. 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 special agricultural worker was denied by the District Director, Dallas, Texas, then reopened and denied again by the Director, Texas Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.*

The center 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 on adverse information regarding the applicant's claim of employment for [REDACTED]

On appeal from the initial decision, the applicant requested a copy of his legalization file. The Service complied with the request on November 20, 1989. Later, counsel stated that the applicant reiterates his employment claim. *The applicant did not respond to the final denial.*

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 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 over 90 man-days of employment picking vegetables for [REDACTED] at [REDACTED] from May 1, 1985 to May 1, 1986.

In support of the claim, the applicant submitted a Form I-705 affidavit, and another affidavit signed by Mrs. [REDACTED]

In attempting to verify the applicant's claimed employment, the Immigration and Naturalization Service, or the Service (now, Citizenship and Immigration Services, or CIS) acquired information which contradicted the applicant's claim. Specifically, the Service was informed by [REDACTED] of the Rusk County, Texas Sheriff's office that the [REDACTED] was owned and operated by Mrs. [REDACTED] and that according to Mrs. [REDACTED] Mrs. [REDACTED] has never been associated with the farm in any capacity

On October 5, 1988, the district director denied the application. On appeal, the applicant reiterates his employment claim. Subsequently, the application was reopened and on March 12, 1991 the applicant was informed in writing of adverse evidence and of the Service's intent to deny the application. The applicant was granted 30 days to respond. The record does not contain a response from the applicant.

Thereafter, the center director denied the application on March 17, 1999. The applicant did not respond to the notice.

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.

Mrs. [REDACTED] was not associated with [REDACTED] in any way. The applicant has failed to address or overcome this adverse evidence, which directly contradicts his employment claim. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has, therefore, failed to credibly establish 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.