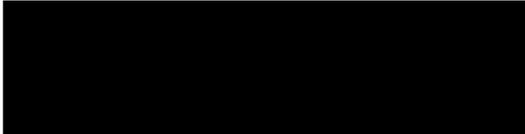


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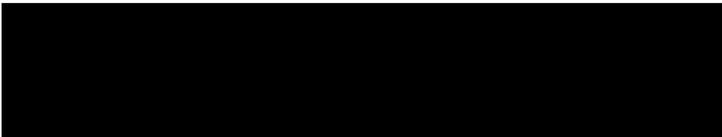
Applicant:



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, remanded by the Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO), and denied again by the Director, California Service Center. The matter is now before the AAO on appeal. The appeal will be dismissed.

The directors denied the application because the applicant failed to establish that he performed at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on information provided by [REDACTED] for whom the applicant claimed to have worked.

On appeal from the initial decision, the applicant requested a copy of the record of proceedings. The director complied with the applicant's request on February 26, 1991.

On appeal from the subsequent decision, the applicant submits additional evidence.

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 to have performed 108 man-days harvesting grapes for [REDACTED] in Kern County, California from to January 1986 to May 1986.

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

In the course of attempting to verify the applicant's claimed employment, the legacy Immigration and Naturalization Service (INS) acquired information which contradicted the applicant's claim. On January 4, 1988, in United States District Court, Southern District of California, [REDACTED] pled guilty to violating one count of 18 U.S.C. §§ 1001 and 2, aiding and abetting false statements and writings used in support of applications filed for special agricultural worker status.

[REDACTED] was informed that the legacy INS received more than 2,200 Special Agricultural Worker applications from individuals who allege to have worked for [REDACTED] in Kern County, California. On April 10, 1990, [REDACTED] provided a voluntary sworn statement "to assist this agency in clearing up problems that I and persons signing my name to these employment affidavits have created." In his statement, [REDACTED] stated that the only work he performed in the years 1985 and 1986 relating to grapes was to rent tractors to harvesting crews and to periodically check these tractors for needed repairs. [REDACTED] further stated that the only agricultural workers that he employed in the years 1985 and 1986 was a crew of 35 individuals that he hired from the local Bakersfield, California area. [REDACTED] employed these workers to harvest cotton, and he did not sign any employment verification letters or I-705 affidavits for any of his cotton harvesting crew, as they were all legal residents of the United States.

[REDACTED] specified that each and every employment verification letter and Form I-705 that indicates or [REDACTED] as the affiant is false, fictitious, and fraudulent. [REDACTED] also advised the Service that he was aware of other individuals who signed verification letters using the name [REDACTED] or [REDACTED] and that these signed documents represent a forgery of his name and should also be considered false, fictitious, and fraudulent.

On July 16, 1990, the applicant was advised in writing of the adverse information obtained by the legacy INS, and of its intent to deny the application. The applicant was granted thirty days to respond. Counsel, in response, requested additional time in which to submit evidence.

The director concluded the applicant had failed to overcome the adverse information, and denied the application on May 3, 1991.

The applicant appealed the director's decision and the case was forwarded to the LAU. On April 24, 2001, the LAU remanded the case as the record did not contain a Notice of Decision.

On March 8, 2004, the director issued a Notice of Decision. In response, the applicant submits affidavits from [REDACTED] and [REDACTED] who attested to the applicant's employment with [REDACTED], in his affidavit, claimed to have worked for [REDACTED] from January 1985 to August 1985, and asserted "all this time I worked with [REDACTED] I saw [the applicant] working there too." [REDACTED] asserted that he has known the applicant since January 1985 and that he "witnessed him [the applicant] going to work to the field." [REDACTED] asserted that he has known the applicant since February 1985 and he and the applicant worked under the supervision of [REDACTED]

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.).

The affidavits submitted have no probative value or evidentiary weight as they contradict the applicant's employment claim. The affiants attested to the applicant's employment with [REDACTED] from January and February 1985; however, the applicant claimed on his Form I-700 application to have been employed by [REDACTED] from January 1986.

The fact that [REDACTED], the applicant's alleged employer, admitted that all documentation he signed on behalf of individuals applying for special agricultural worker status was false directly contradicts the applicant's claim. The applicant has not addressed or overcome this adverse evidence. As such, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has 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.

Finally, it is noted that the FBI record reflects that on April 27, 1978, the applicant was arrested by the Anaheim Police Department for drunk driving on the highway, a violation of section 23102 VC, and reckless driving, a violation of section 23103 VC. On May 25, 1978, the applicant was convicted of reckless driving. The applicant was ordered to pay a fine and placed on probation for one year. The FBI record also reflects that on June 30,

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1978, the applicant was arrested under warrant no. [REDACTED] by the Sheriff's Office in Santa Ana, California for failure to pay fine, a violation of section 40508(b) VC. The final outcome, however, is unknown.

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