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

W



FILE: [Redacted]
XCA 89 045 01295

Office: CALIFORNIA SERVICE CENTER

Date: **MAY 23 2007**

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: Self-represented

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO) on appeal. The matter is now before us on appeal. The appeal will be dismissed.

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 on adverse information acquired by the legacy Immigration and Naturalization Service (INS) relating to the applicant's claim of employment for [REDACTED] at [REDACTED] and [REDACTED].

On appeal, the applicant reasserted the veracity of her employment claim. The applicant requested a copy of the record of proceedings. Said request was complied with by Citizenship and Immigration Services on May 11, 2004; however, it was returned by the post office as undeliverable. To date, no new address has been provided by the applicant.

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 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 to have worked 102 man-days picking and pruning grapes for [REDACTED] from September 9, 1985 to February 1986.

In support of her claim, the applicant submitted a Form I-705 affidavit and a separate employment affidavit, both signed by [REDACTED] who indicated that the applicant worked 102 man-days from May 1, 1985 to May 1, 1986 at [REDACTED] and [REDACTED].

In the course of attempting to verify the applicant's claimed employment, the legacy INS acquired information which contradicted the applicant's claim. Communication from [REDACTED] and [REDACTED] revealed that all work performed for [REDACTED] and [REDACTED] in 1985 or 1986 occurred during the last week in August to approximately mid-October. This information did not correspond with the employment documentation the applicant submitted with her Form I-700 application.

On August 13, 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.

In response, the applicant submitted a letter from [REDACTED] who stated that he worked for [REDACTED] and [REDACTED] from August 1979 to September 1987, and that the applicant worked for him during the qualifying period for more than 90 days.

The director determined that the applicant had failed to overcome the adverse evidence, and denied the application on January 24, 1992. On appeal, the applicant submitted a letter from an alleged co-worker, [REDACTED] of Fresno, California, who reaffirmed the applicant's employment with [REDACTED].

On March 22, 2007, the AAO notified the applicant of additional adverse information, namely on March 27, 1991, [REDACTED], payroll clerk for [REDACTED] and [REDACTED], informed a Service officer that, during the qualifying period, [REDACTED] worked as a foreman only from August 1985 to October 1985, for [REDACTED].

approximately 54 days. [REDACTED] therefore could not have supervised anyone at that farm for 90 days or more. The notice was sent to the applicant's address of record; however, it was returned by the post office as undeliverable.

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 payroll clerk of [REDACTED] and [REDACTED] indicated that [REDACTED] was a foreman for only 54 days during the qualifying period and therefore could not have supervised any employees for over 90 days. The applicant has not overcome this derogatory evidence which directly contradicts the applicant's claim. 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.