

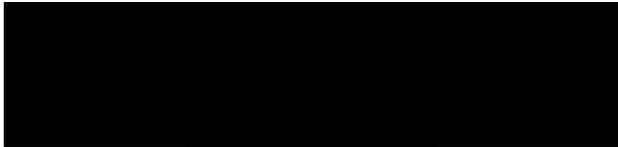


U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **AUG 22 20**

XAH 88 559 07012

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. All documents have been returned to the National Benefits Center. 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.

A handwritten signature in black ink, appearing to be "R. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** This matter is an application for temporary resident status as a special agricultural worker denied by the Director, Western Service Center, which is before the Administrative Appeals Office 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 Citizenship and Immigration Services (CIS) relating to the applicant's claim of employment for [REDACTED].

On appeal, the applicant reiterated his claim and stated that he established his eligibility for classification as a special agricultural worker (SAW) at his legalization interview.

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 to have performed 90 man-days harvesting citrus fruit for [REDACTED] in Yuma County, Arizona from September 5, 1985 to February 20, 1986.

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

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. The Yuma County Tax office could locate no properties owned by [REDACTED] in Yuma County. Additional research revealed no farm properties exchanged by [REDACTED] since 1984. Mr. [REDACTED] informed CIS that he had controlled many pieces of agricultural property during the qualifying period, but was unable to specify the location or owner's name of any of the alleged properties. CIS located [REDACTED] in Yuma, but on August 15, 1988, the manager of that farm stated that they had never known or been connected with Armon Curtis.

On June 21, 1991, the applicant was advised in a notice of intent to deny (NOID) of the adverse information obtained by CIS, and of CIS's intent to deny the application. The applicant was granted thirty days to respond. In response, the applicant provided a letter dated July 18, 1991 in which he reaffirmed his claimed employment under the supervision of [REDACTED] and expressed his surprise at the adverse information previously discussed in the NOID. The applicant further stated that he was going to contact his prior co-workers for the purpose of obtaining their written attestations in support of the applicant's claimed employment. There is no evidence, however, that the applicant supplemented the record with additional documentation.

Accordingly, in a decision dated September 5, 1991, the director concluded the applicant had not overcome the derogatory evidence, and denied the application.

On appeal, the applicant disputes the director's findings, claiming that he worked with [REDACTED] as previously claimed. The applicant stated that he was not issued any W-2 statements and claimed that he was paid in cash, suggesting that pay stubs could not be submitted as proof of his alleged employment. The applicant claimed that he never met any other farmers and merely followed the [REDACTED] to the various job sites. It is noted, however, that going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

Although the applicant requested an extension of time in which to provide statements from co-workers who would support the claim of the applicant's alleged employment, there is no evidence that the record has been supplemented with additional documentation.

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).

Furthermore, it is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). In the present matter, the applicant has attempted to explain the adverse findings of the director by merely reaffirming his claim and promising to submit additional attestations from third parties. That being said, it must be noted that doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of other evidence offered in support of the application. *Id.* Therefore, mere attestations would be insufficient to resolve the considerable inconsistencies cited in the case of this applicant.

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 applicant failed to confirm the existence of any agricultural property controlled by [REDACTED] in Yuma County during the qualifying period. The applicant has not overcome this derogatory evidence by credibly documenting [REDACTED]'s involvement at any Yuma County farm. The failure of [REDACTED] and the applicant to provide any specific information about [REDACTED]'s alleged agricultural activities indicates the application is highly questionable, is not amenable to verification and, therefore, fails to meet the evidentiary requirements set forth in 8 C.F.R. §§ 210.3(b) and (c). 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.