

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

U.S. Department of Homeland Security  
20 Mass, Rm. A3042, 425 I Street, N.W.  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

L4

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

**JUL 08 2005**

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.

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

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office (AAO) 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 Service relating to the applicant's claim of employment for [REDACTED] Valley Farms.

On appeal, the applicant reaffirmed her claimed employment in agriculture stating that she worked for more than one employer during the qualifying period.

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 of qualifying agricultural employment for [REDACTED] at Gila Valley Farms from May 1, 1985 to May 1, 1986. The record shows that the I-700 application was prepared by the office of [REDACTED]

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

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. [REDACTED] admitted to officers of the Service that [REDACTED] Farms was nonexistent, and that he had produced fraudulent employment documents for special agricultural worker applicants.

On January 9, 1992, the applicant was advised in writing of the adverse information obtained by the Service, and of the Service's intent to deny the application. The applicant was granted thirty days to respond. The record does not contain a response to the Service's notice.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application. On appeal, the applicant stated that she worked for more than one agricultural employer. The applicant submitted a Form I-705 affidavit and a separate employment letter signed by [REDACTED]. [REDACTED] indicated that the applicant worked a total of 109 man-days thinning and picking melons at Hernandez Farms from July 1, 1985 to November 3, 1985. The applicant also submitted a photocopied weekly work records.

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.)*.

An applicant raises questions of credibility when asserting an entirely new claim to eligibility on appeal. In such instances, the Service may require credible evidence to support the new claim as well as a complete plausible explanation concerning the applicant's failure to advance this claim initially. The instructions to the application

do not encourage an applicant to limit her claim; rather they encourage the applicant to list multiple claims as they instruct her to show the most recent employment first.

The applicant's claim to have been employed by [REDACTED] was first brought to the Service's attention at the appellate level. The applicant offers no account as to why this entirely new claim to eligibility was not advanced on the application or at the interview. The very purpose of the Form I-700 application is to allow the applicant to claim the qualifying agricultural employment which entitles her to the benefits of status as a special agricultural worker.

Larger issues of credibility arise when an applicant claims employment which is called into question through Service investigation, and later attempts to establish eligibility with a different employer, heretofore never mentioned to the Service. The applicant's advancement of a new employment claim does not address, resolve, or diminish the credibility issues raised by the adverse evidence regarding the applicant's initial claim. For this reason, the applicant's new claim of employment for [REDACTED] will not serve to fulfill the qualification requirements necessary for status as a special agricultural worker. In addition, the new claim indicates that he was working under the name [REDACTED] which appears on the documents provided by [REDACTED] but no evidence was provided to establish that the applicant, in fact, used the name [REDACTED]

On June 29, 1988 [REDACTED] and two other individuals were indicted by a [REDACTED] in Phoenix, Arizona for violation of Title 8, U.S.C., Section 1160(b)(7)(A)(ii). This Section concerns the production and sale of fraudulent documentation relating to the Special Agricultural Worker Program under the Immigration Reform and Control Act of 1986.

On July 14, 1988, during an interview before Service officers, [REDACTED] admitted to having signed an estimated 1,500 fraudulent Form I-705's and employee verification letters as employer and affiant of the nonexistent "Gila Valley Farms." [REDACTED] further admitted that, for each fraudulent document packet which he prepared, he received \$100 plus twenty percent of the total price of the packet. [REDACTED] estimated that he had received approximately \$2,500 in proceeds from this arrangement.

According to an investigative report contained in the record [REDACTED] implicated in the conspiracy several individuals employed at the office of [REDACTED], the qualified designated entity whose office prepared the applicant's application. Among the individuals thus implicated were [REDACTED] himself and Antonio Flores, an employee of [REDACTED] who was indicted along with [REDACTED] stated that the fictitious name "Gila Valley Farms" originated in [REDACTED] office, and that [REDACTED] owed him over \$5,000.

[REDACTED] under federal indictment for document fraud, admitted to Service officers that "Gila Valley Farms" did not exist and that he received payment for the fraudulent documents, which he executed. The applicant has not overcome such 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.