

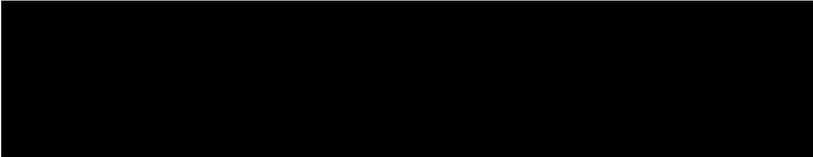
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U.S. Department of Homeland Security
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FILE:



Office: CALIFORNIA SERVICE CENTER

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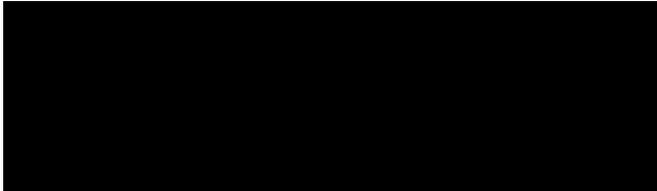
IN RE:

Applicant:



PETITION: 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. If your appeal was sustained, or if the matter 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, 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 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 Jesse Olivas.

On appeal, the applicant reaffirmed her claimed employment.

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 worked 115 man-days harvesting lettuce for Jesse Olivas at Senini Farms during the qualifying period.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a man-days breakdown, both signed by [REDACTED], and a letter from [REDACTED] Bookkeeper of Senini Farming Company, affirming that [REDACTED] was employed at the farm during the qualifying period.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. [REDACTED] executed a sworn statement before a Service officer on June 6, 1990. [REDACTED] admitted in this statement that "my records showed that no one worked for me for ninety (90) days or more during the amnesty qualifying period in 1985 and 1986." [REDACTED] also indicated he had pled guilty to charges of Conspiracy and Creating and Supplying a False Writing and Document for use in Making an Application for Adjustment of Status as a Special Agricultural Worker.

On June 17, 1991, 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.

In response to the Service's notice, the applicant submitted a residence affidavit.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on October 4, 1991. On appeal, the applicant reaffirmed her claimed employment. The applicant did not submit any additional evidence in support of her claim to eligibility.

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.).

Jesse Olivas, the applicant's purported employer, has pled guilty to document fraud charges and admitted that no one worked for him for the minimum of 90 man-days. The applicant has not addressed nor overcome this derogatory evidence which directly contradicts her 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.

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