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

U.S. Citizenship and Immigration Services

[redacted]

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FILE: [redacted] Office: California Service Center Date: OCT 05 2005

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:

[redacted]

PUBLIC COPY

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 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.

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 the applicant's failure to provide more specific evidence.

On appeal, dated May 29, 1992, the applicant stated that he was told that his agricultural employer was out of town, and would return in about three months. He asked for that additional period of time in which to secure employment verification from the employer. However, the applicant has not provided any further evidence from the employer or anyone else.

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 180 man-days of qualifying agricultural employment for [redacted] at [redacted] Service from April 15, 1985 to February 15, 1986. Although the application directs an applicant to indicate his agricultural employment that took place from May 1, 1983 through May 1, 1986, the applicant claimed only that one relatively brief period of farm work.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a letter of employment, both signed by [redacted] The documents indicated the applicant pruned, planted, cut and transplanted fruit trees.

The director sent a Notice of Intent to Deny to the applicant on April 5, 1991, advising the applicant to have Mr. [redacted] complete a questionnaire regarding the precise duties of the job. The applicant responded by providing his own statement, and affidavits from an alleged coworker and his cousin. The alleged coworker did not mention the name of the employer, or type of employment, but simply stated that he and the applicant met through their employment and remained friends. The applicant's cousin stated that he and the applicant resided together from 1985 to 1987 in Vista, California.

In his statement, the applicant explained that he arrived in the United States in May 1985, and went to his cousin's house to live. The applicant stated:

> I was told about work with Mr. [redacted] by a friend of mine named [redacted], who was working for Mr. [redacted] before me. I began working for Mr. [redacted] on May 15, 1985. My cousin also worked for Mr. [redacted] and him and I would leave together to which ever sight we would be assigned to.