

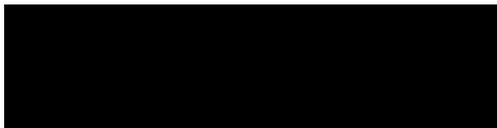
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U.S. Department of Homeland Security
20 Mass. Avenue, N.W., Rm. 3000
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
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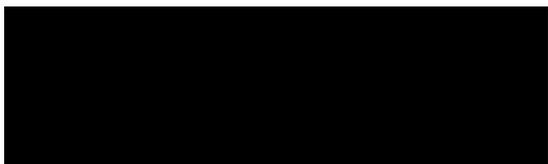
Office: CALIFORNIA SERVICE CENTER

Date: AUG 09 2006

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:



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 "D. King" or similar, written over a horizontal line.

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. The matter was remanded by the Administrative Appeals Office (AAO), and denied again by the Director, California Service Center. The matter is now before the AAO on appeal. The appeal will be dismissed.

The Director, Western Service Center denied the application because the applicant purportedly claimed employment [REDACTED] Dal Porto and/or Del Porto Farms. The Director, California Service Center finally denied the application because of adverse information acquired by the Service relating to the applicant's claim of employment for [REDACTED] at other farms.

On appeal from the initial denial, the applicant stated that he had sufficient documentation to prove eligibility, and that he had met the burden of proof. In response to the second denial, he maintains that he worked for Agripina Pacheco as claimed.

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 97 man-days laboring in qualifying agricultural employment for farm labor contractor [REDACTED] different farms in San Joaquin County, California from May 1, 1985 to September 15, 1985.

In support of such claim, the applicant submitted a corresponding Form I-705 affidavit and an employment verification affidavit, both signed by [REDACTED]

On October 10, 1991, the Director, Western Service Center, denied the application because it was concluded that the applicant had claimed employment for [REDACTED] at Dal-Porto or Del Porto Farms and a Service investigation had revealed that [REDACTED] had never worked at Del Porto Farms and had not worked at Dal Porto Farms since 1984, which is outside the qualifying period.

Subsequently, on September 12, 2000, the AAO determined that the application had been denied based on adverse evidence concerning places of employment that the applicant had never claimed as places he worked. The AAO withdrew the decision and remanded the case for a new decision addressing the applicant's claimed employment.

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. [REDACTED] executed a sworn statement on March 30, 1989 in which she provided, based on her records and memory, a list of employees whom she believed worked for her during the twelve-month requisite period. The applicant's name does not appear on this list.

██████████ also stated the following: "However, the statements as to the applicant's employment contained in the below listed Forms I-705 cannot be relied upon to establish that the applicants qualify for SAW status because I believe each one contains a false, fictitious or fraudulent statement. For example, I stated that I had personal knowledge that said applicants had worked the required ninety (90) days, for certain farm owners or operators, but, in fact, I had no personal knowledge nor do I have any present recollection that the applicants named on the below listed forms qualify for legalization under the SAW portion of the Immigration Reform and Control Act." The applicant's name appears on this list.

On April 19, 1989, in the United States District Court for the Eastern District of California, Agripina Flores de Pacheco was sentenced for creating or supplying false writings of documents for use in making applications for special agricultural worker status, in violation of 8 U.S.C. 1160 (b)(7)(A)(ii).

On November 1, 2004, the applicant was advised in writing of the adverse information obtained by the Service regarding the lists, 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 from the applicant.

The Director, California Service Center, concluded the applicant had not overcome the derogatory evidence, and denied the application May 26, 2005.

In response to that decision, the applicant submitted a personal statement reaffirming his claimed employment and stating that there must be an error on the list provided by ██████████. The applicant also states that he has been trying to contact other employees of ██████████ that he worked with, but they did not have the same address or had moved to other states. It is significant to note that on five different occasions in his statement, the applicant refers to ██████████ as "██████████" and several times as "he" or "him." If the applicant had worked for ██████████ he certainly would know that she is a woman.

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.), June 15, 1989.

The derogatory information obtained by the Service regarding the applicant's alleged employment for Agripina Pacheco during the qualifying period directly contradicts the applicant's claim. The applicant has not overcome such derogatory evidence. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has failed to credibly establish the performance of at least 90 man-days of qualifying agricultural employment during the twelve-month 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.