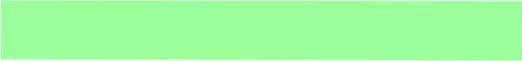




(b)(6)



Date: **SEP 09 2013** Office: CALIFORNIA SERVICE CENTER FILE: 

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:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Western Service Center Director, and is now before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The Western Service Center Director denied the application for Group 2 status, finding the applicant had failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the 12-month period ending on May 1, 1986. This determination was based on adverse information acquired by the Service relating to the applicant's claim of having worked for farm labor contractor Pedro Aguirre.

On appeal, the applicant asserts that he had worked 90 days and that he did not know why [redacted] told the Service otherwise. After filing the appeal, the applicant submitted two additional affidavits indicating that the applicant had also worked for [redacted] during the statutory 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 I-700 application, the applicant claimed he performed 75 man-days of labor for [redacted] in Imperial County, California between September and December of 1985. He also indicated that he performed 39 man-days of labor for [redacted] and [redacted] from January to March 1986. .

In support of his claim, the applicant submitted a Form I-705 affidavit 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. In a sworn statement before an officer of this Service on July 20, 1988, [redacted] stated that he had never worked as a farm labor contractor and had no personal knowledge of anyone else's employment. He further stated that he had not performed 90 man-days of qualifying agricultural labor during the statutory period and that the information contained in each and every Form I-705 that he provided and signed were false.

On April 11, 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, the applicant asserted that he did work 90 days for [redacted] during the statutory period.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application.

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. *United Farm Workers (AFL-CIO) v. INS*, Civil No. S-87-1064-JFM (E.D. Cal.).

The derogatory information obtained by the Service from [REDACTED] directly contradicts the applicant's claim. The applicant has not overcome such derogatory evidence.

The applicant has failed to credibly establish 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.