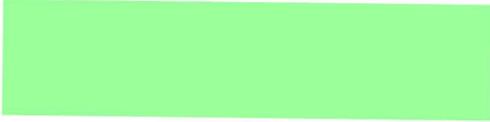


(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090
**U.S. Citizenship
and Immigration
Services**

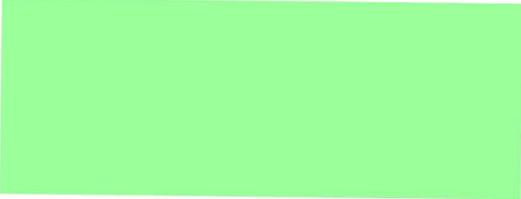


Date **MAR 10 2014** Office: CALIFORNIA SERVICE CENTER FILE: 

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:



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 Western Service Center [now known as the California Service Center] Director denied the application for temporary resident status as a special agricultural worker. The matter is now before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director denied the application for Group 2 status because the applicant 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 decision was based on adverse information acquired by the Service relating to the applicant's claim of employment for [REDACTED] at [REDACTED]

On appeal, the applicant requested a copy of the record of proceedings and reserved his right to amend the statement of reasons for his appeal. The request was originally processed on October 1, 1991. The request was subsequently processed again on June 1, 1998. The applicant supplemented his appeal with a written declaration.

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 93 man-days of labor at [REDACTED]. In support of his claim, the applicant submitted a Form I-705, supporting affidavit, and a supplemental statement to Form I-705, both of which state that the affiant making the statement is [REDACTED] grower.

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which undermined the applicant's claim. On April 13, 1990, as part of a plea agreement, [REDACTED] made a declaration to the United States Attorney's Office and the United States District Court at Portland, Oregon. On September 18, 1990, [REDACTED] made a declaration to the United States Attorney's Office and the United States District Court at Portland, Oregon. Both stated that they did in fact employ approximately 30 people for 90 days or more from May 1, 1985 to May 1, 1986. They then provided a list of names of the people they claimed to employ during the relevant time period along with the list of the names of 100 people whom they claimed to have employed for less than 90 days from May 1, 1985 to May 1, 1986. The director noted that the applicant's name did not appear on either list. Lastly, [REDACTED] and [REDACTED] further declared that all other Form I-705 affidavits they signed are false.

The director advised the applicant in writing of the adverse information obtained by the Service, and granted him thirty days to respond. In response, the applicant provided pay stubs for employment with [REDACTED] in 1988 and 1989. With regard to employment during the relevant one-year time period ending on May 1, 1986, the applicant provided three

photocopied vouchers. All three vouchers identified the applicant by name and provided his total earnings. Only two of the vouchers contained any dates indicating when the alleged work took place or identified the applicant by an identification number that was purportedly assigned to him by [REDACTED]

The director reviewed the applicant's submissions and determined that the applicant failed to overcome the fact that his name does not appear on the [REDACTED] list of employees for the qualifying period of employment. The director therefore denied the application.

On appeal, the applicant provided a statement, reasserting his original claim of having worked for [REDACTED] during the qualifying period. The applicant claimed that he was hired by a contractor named [REDACTED] who allegedly brought the applicant, along with other workers comprising a group of more than 250 individuals, to work at one of two farms – [REDACTED] or [REDACTED]. The applicant stated that he “usually requested to be assigned to [REDACTED] farm” and indicated that he was submitting a picture of himself on [REDACTED] front porch, claiming that Ms. [REDACTED] signed the back of the photograph as proof of its validity. The applicant claimed that he was paid in cash and that his names, along with the names of other workers, were written “on a special payroll list” which kept track of the employees’ hours and the type of work they did.

Additionally, the record contains a letter from the applicant, stating he had previously sent evidence to U.S. Citizenship and Immigration Services (legacy INS) showing that he had worked with [REDACTED] from 1984 to 1989.

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.).

In the present matter, the derogatory information obtained by the Service from [REDACTED] directly contradicts the applicant's claim. Although the applicant provided the above described statement attempting to resolve the inconsistency between the claims being made and the adverse evidence, he provided no credible corroborating evidence to support his claims. Even if the AAO were to rely on the three pay vouchers, which identified the applicant by name and identification number, as corroborating evidence of the applicant's period of qualifying employment, none of the vouchers specify the total time period the applicant was purportedly employed at [REDACTED] nor do they provide any information about the

person who purportedly completed the vouchers to indicate that the individual who provided the information was in a position where he/she had access to such information. Moreover, one of the photocopies cut off the top of the voucher and thus precludes the AAO from being able to determine the time period when the purported employment took place. Thus, even if the director were to have accepted the vouchers as valid, the information contained within those vouchers would have been insufficient to determine the number of days the applicant worked at [REDACTED] within the qualifying one-year period. In light of these deficiencies, the AAO cannot conclude that the applicant has overcome the derogatory evidence presented in the request for evidence and subsequent decision denying the application.

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.