

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Service  
Administrative Appeals Office  
20 Massachusetts Ave., N.W., MS2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: **JUL 16 2015**

FILE: [REDACTED]

APPLICATION RECEIPT: [REDACTED]

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:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case. This is a final decision. You do not have the right to file a motion to reopen or reconsider.

Thank you,

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

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Los Angeles Field Office Director denied the application for temporary resident status as a special agricultural worker. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.<sup>1</sup>

The director denied the application, finding that the applicant failed to establish that she performed at least 90 man-days of qualifying agricultural employment during the eligibility period.

On appeal, the applicant asserts that she has established that she performed at least 90 man days of qualifying agricultural employment during the eligibility period. The applicant submits a Form W-2 Wage and Tax Statement previously provided.

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, provided she is otherwise admissible under the provisions of section 210(c) of the Act and is 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 the following employment for a single employer, [REDACTED] 150 days picking strawberries between January 25, 1985 and July 6, 1985 in [REDACTED] California.

In support of the claim, the applicant submitted a Form I-705 affidavit confirming seasonal agricultural employment, signed by [REDACTED] indicating that the applicant worked 150 man-days picking strawberries from January 15, 1985 to July 6, 1985.

In a notice of intent to deny (NOID), the director informed the applicant that the record failed to establish that she worked at least 90 man-days during the twelve-month period ending May 1, 1986. The director noted that in her own written and oral testimony, taken during her interview on September 7, 2007, the applicant stated that she worked in the field January 1985 to July 1986 picking strawberries.<sup>2</sup>

On appeal, the applicant states that she made an error on her Form I-700. She states that the correct period of her employment with [REDACTED] was from January 25, 1985, and ending on July 5, 1986, and during that period she worked 150 man-days. The applicant states that her 1985 Form W-2 shows 10 months of employment during 1985 at the rate of \$3.25 per hour.

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<sup>1</sup> The applicant's request for a copy of the record of proceedings was processed on October 27, 1997 (WSC 97 008893).

<sup>2</sup> The NOID has a typographical error where it states July 5, 1986. Rather, the dates on the applicant's September 7, 2007, statement are from January 25, 1985, to July 5, 1985. The error is deemed harmless, as the analysis in the NOID indicates that it is based on the period January 25, 1985, to July 5, 1985.

The applicant's claim that she worked with [REDACTED] for 10 months in 1985 is partially contradicted by the Form I-705 affidavit she submitted with her Form I-700 application. According to the Form I-705, the applicant worked 150 man-days picking strawberries from January 15, 1985 to July 6, 1985. The 1985 Form W-2 does not establish the number of days of the applicant's employment, only that the applicant had been employed during 1985. As also noted by the director, in both her oral and written testimony the applicant stated that she was employed by [REDACTED] picking strawberries from January 15, 1985 to July 5, 1985. The duration from May 1, 1985 to July 5, 1985 totals 67 days, less that the requisite 90 man-days required during the 12 month period ending May 1, 1986.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has not submitted objective evidence to explain or justify the discrepancies in the record pertaining to her employment. Therefore, the reliability of the applicant's statement on appeal offered by the applicant is suspect, and it must be concluded that the applicant has not established the requisite employment.

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)*, Civil No. S-87-1064-JFM (E.D. Cal.).

The applicant does not provide sufficient documentation to support her claim. The record, as constituted, fails to establish that the applicant performed at least 90 man-days of qualifying agricultural employment during the eligibility period. Moreover, the applicant has not overcome the inconsistencies in the evidence. As such, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has not credibly established the performance of at least 90 man-days of qualifying agricultural employment during the twelve-month period ending May 1, 1986. Consequently,

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*NON-PRECEDENT DECISION*

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.