



U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **JUN 15 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 REPRESENTATION OF RECORD

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. If your appeal was dismissed or rejected, 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.

Thank you,

A handwritten signature in cursive script that reads "Ron Rosenberg".

Ron Rosenberg  
Chief, 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). The decision of the director will be withdrawn and the case will be remanded for further consideration and action.

On June 19, 1992, the director denied the application, because it was determined that the applicant had admitted before a Service officer that he had not performed the agricultural employment that he had initially claimed on his application.

In order to be eligible for temporary resident status as a special agricultural worker (SAW), 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 he is otherwise admissible under 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 over 90 man-days of qualifying agricultural services for [REDACTED] at [REDACTED] in [REDACTED] California from June 18, 1985 to November 28, 1986. In support of the claim, the applicant submitted a Form I-705 affidavit and a separate employment letter, both signed by [REDACTED] foreman and farm labor contractor.

On December 17, 1987, the applicant entered the United States without inspection and was subsequently detained by the U.S. Border Patrol. According to the Form I-213, Record of Deportable Alien, that date was the applicant's first entry into the United States, and the applicant made no claim of seasonal agricultural worker status.

The applicant was advised of this derogatory information by the director on April 30, 1992, and he was granted 30 days to respond. The applicant, however, did not respond to the notice. The director concluded the applicant had not overcome the adverse information, and denied the application.

On appeal, the applicant requested a copy of the record of proceedings. This office complied with the applicant's request on February 24, 1999. Subsequently, the applicant submitted a declaration reaffirming his employment claim and indicated, in pertinent part:

The document titled "Record of Deportable Alien" where the officer wrote that I did not have claim of prior residence or to SAW status does not indicate that it was given as a sworn statement. I do not remember raising my right hand to swear about my statement.

I do not remember seeing that document. I did not sign that document.

The officer did not speak Spanish and I know that he did not translate the questions, if they were asked.

The applicant submits a statement from his sister, [REDACTED] who indicates that she was residing in the United States at the time the applicant was detained, that the applicant had worked in agriculture, and that she had told the applicant to come to the United States, as he would be eligible to adjust status due to his agricultural employment.

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.)*.

The inference to be drawn from the documentation shall depend on the extent of the documentation, its credibility and amenability to verification. If an applicant establishes that he has in fact performed the requisite qualifying agricultural employment by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference, the burden then shifts to the Service to disprove the applicant's evidence by showing that the inference drawn from the evidence is not reasonable. 8 C.F.R. § 210.3(b)(1).

The record contains no evidence of a signed sworn statement from the applicant or that the statements of the applicant indicated on the Form I-213 were made in the Spanish language. Further, though [REDACTED] indicated that official records were available, the record lacks evidence of any attempts by the director to verify the employment with Mr. [REDACTED]

The applicant has submitted sufficient evidence to establish as a matter of just and reasonable inference the performance of at least 90 man-days of qualifying agricultural employment during the twelve-month statutory period ending May 1, 1986.

There are no known grounds of ineligibility except for the fact that the fingerprint check has expired. As of March 29, 1998, applicants for temporary resident status as a SAW are required to be fingerprinted at a U.S. Citizenship and Immigration Services Application Support Center. Accordingly, the case will be remanded for the purpose of the director to schedule an appointment in order for the applicant to be fingerprinted, and then complete the adjudication of the application.

**ORDER:** The decision is withdrawn. The case is remanded for appropriate action and decision consistent with the foregoing. A new decision, if adverse to the applicant, is to be certified to the Administrative Appeals Office for review.