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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

JUL 06 2004

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

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:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided 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 "Robert P. Wiemann".

Robert P. Wiemann, Director
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 on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on adverse information relating to the applicant's claim of employment for [REDACTED] Farms.

On appeal, counsel stated the applicant did work for [REDACTED] and other contractors. He indicated he would provide evidence when it became available. He also requested a copy of the record. Although such request was complied with, neither counsel nor the applicant provided any further documentation.

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 to have worked 111 man-days picking, weeding and planting strawberries for [REDACTED] farms in Santa Barbara County, California from May 1, 1985 to May 1, 1986.

In support of his claim, the applicant submitted an I-705 affidavit and a separate employment statement, both purportedly signed by Juan [REDACTED]

In the course of attempting to verify the applicant's claimed employment, the director acquired information which contradicted the applicant's claim. On January 29, 1990, an immigration officer interviewed the office manager for [REDACTED] Farms. That official indicated that Mr. [REDACTED] employed "not more than two (2) to three (3) individuals at any given time . . . (and these) individuals were continuously being replaced by newly hired employees." Mr. [REDACTED] had sub-leased 2.29 acres of farm land in 1985, and 2.1 acres in 1986. The farm's office manager, speaking from 22 years of experience in farming, stated that "there is only a need for two (2) persons per acre of land in strawberry farming." The director noted that more than 2,700 aliens had claimed to have worked for [REDACTED] Farms.

Furthermore, in a sworn affidavit dated July 27, 1989, [REDACTED] stated that he had been advised that his signature had been forged on employment documents, and that he had never authorized anyone to sign such documents in his name. Mr. [REDACTED] further stated that "(a)ny document which purports to bear my signature in reference (to) any INS application should therefore be regarded as null and void."

On March 15, 1991 the applicant was advised in writing of the adverse information, and of the director's intent to deny the application. The applicant was granted thirty days to respond. In response, counsel requested that he be given until July 15, 1991 to respond further. No further response was received, and the director denied the application on August 2, 1991.

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. [REDACTED] (E.D. Cal.).

[REDACTED] the applicant's purported employer, has denounced employment affidavits in his name as forgeries and declared all such documents to be "null and void." An official [REDACTED] farms has indicated that [REDACTED] only hired small numbers of workers who were frequently replaced. The applicant has not overcome this adverse information which directly contradicts his claim. 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 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.