



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE: [Redacted]

Office: CALIFORNIA SERVICE CENTER

Date: SEP 01 2004

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:
[Redacted]

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.

Robert P. Wiemann, Director
Administrative Appeals Office

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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 regarding the applicant's claim of employment for Frank De La Rosa.

On appeal, the applicant states that he did work for Frank De La Rosa.

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 application, Form I-700, the applicant claimed to have performed 145 man-days of agricultural employment from May 1985 to May 1986 for foreman Frank De La Rosa at El Mirage Farm in Arizona.

In support of the claim, the applicant submitted a Form I-705 affidavit and an employment verification letter, both allegedly signed by foreman [REDACTED]

In attempting to verify the applicant's claimed employment, the director acquired information which contradicted the applicant's claim. The Immigration and Naturalization Service (the Service) attempted to contact [REDACTED] at the address he listed on a number of Form I-705 affidavits. This address belonged to Leyton Woolf, owner of [REDACTED] advised the Service that Frank De La Rosa had been employed on his farm as a full-time foreman beginning in March or April of 1984 until the time of his termination in May of 1988. As such, [REDACTED] stated that [REDACTED] had no time to pursue other employment outside of his full-time job at [REDACTED] contrary to [REDACTED]'s assertions that he was employed at other farms during the qualifying period. [REDACTED] also stated that workers who had worked at his farm during the qualifying period, including those workers who were under the supervision of foreman [REDACTED] approached him [REDACTED] for evidence of such employment. He further indicated that, for almost 25 years, he had kept extensive payroll records of individuals who worked on his farm.

In his letter, [REDACTED] informed the Service that [REDACTED] resided on his property, and that when [REDACTED] trailer was cleaned [REDACTED] found approximately 50-75 signed, dated, and notarized verification letters with the space designated for the applicant's name left blank. [REDACTED] also stated that it was common knowledge in the area that these letters were for sale.

On August 2, 1989, [REDACTED] was convicted of creating and supplying false writings and documents to be used in applying for temporary residence under the special agricultural worker program, in violation of

8 USC § 1160(b)(7)(A)(ii). As part of a plea agreement, [REDACTED] admitted in a signed sworn declaration that he had created and supplied false immigration documents for monetary gain to individuals he knew he had not employed, including signed and notarized letters and Form I-705 affidavits.

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. He requested an additional period of sixty days, and after he failed to submit any statement or document within that period, the director denied the application.

On appeal, the applicant asserts that he did work for [REDACTED]. He furnishes an affidavit from [REDACTED] who states that he has known the applicant since 1985, when he gave him rides to work when he was topping onions. No information is provided as to the location of the work, or the name of the employer.

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. S-87-1064-JFM (E.D. Cal.)

Based on the information acquired by the Service, it is concluded that [REDACTED] did not work at El [REDACTED] or any farm other than [REDACTED] during the period in question. Furthermore, [REDACTED] has stated that his employees, including those who were supervised by [REDACTED] came to him for documentation of their employment. The applicant has not provided any documents from [REDACTED] although [REDACTED] stated he had extensive records of his employees. In the absence of such documentation, it is further concluded that the applicant did not work at [REDACTED].

The applicant has failed to 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.