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U.S. Citizenship
and Immigration
Services



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FILE: [Redacted]

Office: CALIFORNIA SERVICE CENTER

Date: DEC 13 2008

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: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the service center that processed 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

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) 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 acquired by the Service relating to the applicant's claim of employment for Carlos Estrada.

On appeal, the applicant reasserted his claimed employment.

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 35 man-days employment for [REDACTED] at [REDACTED] from May 1985 to June 1985 and 73 man-days employment for [REDACTED] at [REDACTED] from July 1985 to September 1985.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit signed by [REDACTED] and a photocopied 1985 Form W-2 Wage and Tax Statement purportedly from [REDACTED] to [REDACTED].

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. On November 4, 1987, a Service officer contacted [REDACTED] spouse of [REDACTED] and owner and supervisor of the contracting enterprise of which [REDACTED] was president. Mr. [REDACTED] stated that he employed [REDACTED] as a supervisor for only two months in 1985, and that the company paid its workers strictly by check.

On August 28, 1991, 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. The record does not contain a response to the notice from the applicant.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on October 10, 1991. On appeal, the applicant stated that he did work for [REDACTED] and he indicated that he was submitting additional to that effect. However, the applicant merely submitted photocopied documentation, previously submitted.

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

The applicant claimed all of his employment under [REDACTED] for [REDACTED]. As previously mentioned, [REDACTED] indicated that his company employed Carlos Estrada for only two months in 1985. This fact directly contradicts the applicant's claim of employment for over 90 man-days with [REDACTED]. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has failed to establish credibly 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.