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U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date FEB 10 2005

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: Self-represented

**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]

On appeal, the applicant states he did work with [REDACTED] and indicates he was never asked to pay any money for the affidavit. He requests a hearing.

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 145 man-days harvesting onions from May 1, 1985 to May 1, 1986 for [REDACTED]

In support of the claim, the applicant submitted a Form I-705 affidavit and an employment letter, both purportedly signed by [REDACTED]. [REDACTED] indicated the employment took place in [REDACTED] Arizona.

In attempting to verify the applicant's claimed employment, the Immigration and Naturalization Service (the Service) acquired information which contradicted the applicant's claim. On August 8, 1991, [REDACTED] executed a sworn statement before Service officers regarding employment documentation submitted by applicants seeking benefits under the special agricultural worker program which contained his name as the affiant. The sworn statement signed by [REDACTED] included three lists of individuals with their accompanying birthdates and A-file numbers. The first list consisted of those individuals who actually worked for him for at least 90 man-days during the qualifying period; the second list consisted of individuals to whom he sold documents but had no knowledge of these applicants' work experience; and, the third list, as verified by [REDACTED] consisted of individuals whose employment documents contained fraudulent signatures of himself as the affiant, as he had not provided these documents to the individuals in question and had no knowledge of their work experience. The applicant's name appears on the third list of individuals.

The director attempted to advise the applicant of the adverse information, and of his intent to deny the application. However, the applicant did not receive the director's notice. The director then denied the application.

On appeal, the applicant reiterates his claim to have worked for [REDACTED]. He asserts that many farmers authorized their foremen and other people to sign affidavits in the name of the farmer. The applicant

indicates that, often, to avoid charges of tax evasion, these farmers would later falsely disavow having employed unauthorized workers. He speculates that [REDACTED] may have done this.

The applicant also provides an affidavit from another employer, [REDACTED] referring to nursery work in Highland, California. Finally, the applicant requests a hearing.

Pursuant to 8 C.F.R. 103.3(b)(1), an appellant must explain in writing specifically why oral argument is necessary. The applicant has not actually done so, and the request will therefore be denied.

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 asserts that he really worked for [REDACTED] as indicated that he did not. The applicant has not provided any third party evidence in support of his claim. As stated above, personal testimony that is not corroborated by other credible evidence will not serve to meet an applicant's burden of proof. In the absence of any evidence that [REDACTED] sworn statement to the Service was false or inaccurate, it will be accepted.

The derogatory information provided by [REDACTED] directly contradicts the applicant's claim. The applicant has not overcome such derogatory evidence. Therefore, the documentary evidence submitted by the applicant concerning that claim cannot be considered as having any probative value or evidentiary weight.

The applicant indicates that he also worked for [REDACTED]. He states that he worked for various ranchers, but during the application period he saw [REDACTED] first and therefore asked him for the affidavit. However, he does not explain why he did not at least list his other agricultural work on his application. The instructions to the application do not encourage applicants to limit their claims; rather, applicants are encouraged to list multiple claims, as they are instructed to show the most recent employment first.

An applicant raises serious questions of credibility when asserting an entirely new claim to eligibility on appeal. Furthermore, the applicant's new claim to have worked in Highland, California from October 1985 to February 1986 contradicts the applicant's initial assertion on his I-700 application that he was living in Phoenix at that time. Larger issues of credibility arise when an applicant claims employment which is called into question through Service investigation, and later attempts to establish eligibility with a different

employer, heretofore never mentioned to the Service. For this reason, the applicant's new claim of employment for [REDACTED] will not serve to fulfill the qualification requirements necessary for status as a special agricultural worker.

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