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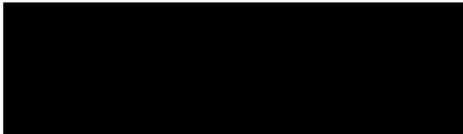
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U.S. Department of Homeland Security  
20 Massachusetts Ave. NW, Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

21



FILE:



Office: CALIFORNIA SERVICE CENTER

MAR 14 2008  
Date:

IN RE:

Applicant:



PETITION: 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 the matter 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 for Group 1 and Group 2 eligibility. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application for Group 1 status because the applicant failed to establish the performance of at least 90 man-days of employment during the first and second Group 1 twelve-month statutory periods ending May 1, 1984 and May 1, 1985

The director denied the application for Group 2 eligibility because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. This determination was based on information obtained by Citizenship and Immigration Services (CIS), formerly the Immigration and Naturalization Service (INS), regarding the applicant's claimed employment for [REDACTED]

On appeal, the applicant stated that he never received a decision regarding his Group 2 eligibility. The applicant requested a copy of his legalization file. CIS complied with the request on December 5, 2003.

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 performed 105 man-days of qualifying agricultural employment for [REDACTED] in Imperial, California from March 1985 to February 1986.

In support of the claim, the applicant submitted a Form I-705 affidavit and a separate employment letter, both signed by [REDACTED] who indicated that he was a foreman for farm labor contractor [REDACTED]

In attempting to verify the applicant's claimed employment for Group 2 eligibility, CIS acquired information which contradicted the applicant's claim. Specifically, [REDACTED] provided CIS with a list of foremen that worked for him during the qualifying period. The applicant's purported foreman is not named on that list.

On July 24, 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 contains no response from the applicant to the Service's notice.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application.

Subsequent to being provided with a copy of his legalization file, which contained the notice of intent to deny and the notice of denial of his Group 2 eligibility, the applicant has made no statements, nor has he submitted any additional documentary evidence.

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.).

did not identify as being one of the foremen who worked him during the qualifying period. The applicant has failed to address or overcome this adverse evidence, which directly contradicts his employment claim. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has, therefore, 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.