



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED]
XLT-88-149-1029

Office: TEXAS SERVICE CENTER

Date: JUL 18 2006

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. 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, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Southern Regional Processing Facility, then reopened and denied again by the Director, Southern Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The center director denied the application because the applicant admitted in a sworn statement that she had not performed at least 90 man-days of qualifying agricultural employment during the statutory period. On appeal, the applicant maintains that she did work as claimed.

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, provided he is otherwise admissible under section 210(c) of the Act and is not ineligible under 8 C.F.R. § 210.3(d).

On the application, Form I-700, the applicant claimed 90+ man-days of agricultural employment for from June 10, 1985 to November 20, 1985. In support of her claim, the applicant submitted a corresponding Form I-705 affidavit purportedly signed by [REDACTED] who identified herself as a bookkeeper. Ms. [REDACTED] submitted another affidavit, in which she referred to herself as a secretary.

Subsequently, on June 24, 1988, the applicant admitted in a signed sworn statement, under oath and in the presence of a Service officer that she had never worked in the United States.

In response to a Notice of Intent to Deny, dated August 26, 1993, the applicant submitted a personal statement in which she stated that she was intimidated into telling a Service officer that she had never worked in the United States, when she had actually worked for [REDACTED]. She stated that she was threatened with the use of handcuffs and became very nervous and apprehensive, so she said that she had not worked in the United States. In addition, the applicant submitted affidavits from her husband and father-in-law as well as a photocopied employment letter, previously submitted and all attesting to the applicant's employment at [REDACTED].

An applicant raises questions of credibility when she admits to providing false information in the application process. An inference cannot be drawn that the information is now accurate simply because the applicant recants her earlier admission. Even in cases in which the burden of proof is upon the government, such as in deportation proceedings, a previous sworn statement voluntarily made by an alien is admissible, and is not in violation of due process or fair hearing. *Matter of Pang*, 11 I&N Dec. 213 (BIA 1965). Furthermore, in the absence of exceptional circumstances, a challenge to the voluntariness of an admission or confession will not be entertained. *Matter of Stapleton*, 15 I&N Dec. 469 (BIA 1975).

It is significant that, even though the application had already been once denied, the applicant waited five years before making claim to having been intimidated into lying and stating that she never worked in the United States. Even though members of her family have attested to her having worked, questions of credibility remain.

Given the facts of the case, it is concluded that the applicant has not established the requisite agricultural employment during the eligibility period. Consequently, the applicant is statutorily 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.