



U.S. Citizenship
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Services

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FILE:

XDA-88-002-1033

Office: TEXAS SERVICE CENTER

Date: JUL 21 2006

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:



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 Service Center, and is now before the Administrative Appeals Office (AAO) 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 [REDACTED]

On appeal, the applicant reaffirmed his claimed employment for [REDACTED]. The applicant submitted additional evidence.

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 a total of 102 man-days of employment cultivating beets and cotton for [REDACTED] farm from May 1985 to August 1985.

In support of the claim, the applicant submitted a Form I-705 affidavit and separate man-days breakdowns signed by [REDACTED]

In attempting to verify the applicant's claimed employment, the Immigration and Naturalization Service, or the Service (now, Citizenship and Immigration Services, or CIS) acquired information which contradicted the applicant's claim. Specifically, the Service was informed by [REDACTED] farmer from Nazareth, Texas that farm labor contractor [REDACTED] furnished crews to work on his farm for no more than 12 man-days during the period May 1, 1985 to May 1, 1986.

On March 23, 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 on September 10, 1991.

On appeal, the applicant reaffirmed his claimed employment. The applicant submitted a form affidavit signed by [REDACTED] who stated that he met the applicant while the applicant was working in the fields in Nazareth, Texas with [REDACTED] from May 1985 to August 1985. The applicant also submitted a letter from [REDACTED] who stated that the applicant worked with him in March 1985.

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 has not credibly established that he worked from [REDACTED] farm for 102 man-days as claimed. The applicant's claim that he worked for [REDACTED] at different, unnamed, farms is not corroborated by any documentary evidence. Therefore, the documentary evidence submitted by the applicant concerning the [REDACTED] claim cannot be considered as having any probative value or evidentiary weight. Furthermore, [REDACTED] only attested to the applicant's employment in March 1985, which does not relate to the May 1, 1985 to May 1, 1986 period.

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.