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U.S. Citizenship  
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FILE:



CALIFORNIA SERVICE CENTER

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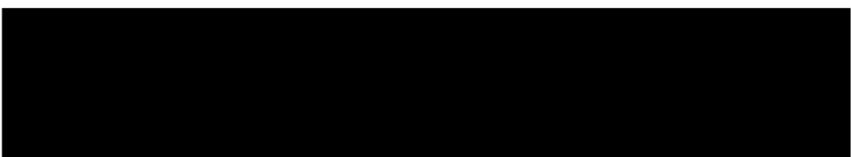
Applicant:



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. 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.

  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, and the applicant appealed the decision. The applicant submitted a Freedom of Information Act (FOIA) request with his appeal. The Legalization Appeals Unit remanded the case per the director's request to respond to the applicant's FOIA request. On October 23, 1992, a copy of the file was sent to the applicant. The matter 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 acquired by the Service relating to the applicant's claim of employment for farm labor contractor [REDACTED]

The applicant filed an appeal. Counsel for the applicant subsequently submitted a brief and two new affidavits to the AAO.

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).

The applicant claimed 90 man-days of qualifying agricultural employment with farm labor contractor [REDACTED] and 104 man-days with [REDACTED]

In support of the claim, the applicant submitted a Form I-705 affidavit purportedly signed by [REDACTED] indicating that he hired the applicant to perform fieldwork for 104 man-days between May 1, 1985 to May 1, 1986.

In attempting to verify the applicant's claimed employment, the Service acquired information that contradicted the applicant's claim. [REDACTED] secretary provided the Service with a list of the individuals to whom she and [REDACTED] had provided employment verification documents. The applicant's name does not appear on this list.

On April 6, 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 applicant failed to respond to the notice of intent to deny.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application. On appeal, the applicant asserts that he did not knowingly submit false documentation to the Service to establish his eligibility for temporary resident status as a special agricultural worker. The applicant further asserts that he performed sufficient labor for another

farm labor contractor, [REDACTED] at the [REDACTED] at Hughson, California.

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. June 15, 1989).

[REDACTED] secretary did not identify this applicant on the list of employees who had received employment documentation. This derogatory information calls into question the origin and authenticity of the applicant's documentation. The applicant has not overcome such derogatory evidence. Therefore, the employment documents 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.

It is further noted that according to an FBI report based upon the applicant's fingerprints, the applicant was charged with possession of a methaqualone on September 8, 1985. No further information is in the record of proceeding and the final disposition is unknown. An alien convicted of one felony or three or more misdemeanors is ineligible for temporary resident status. 8 C.F.R. § 210.3(d).

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.