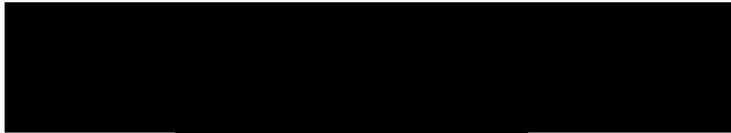


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Services

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FILE: [REDACTED]
XBA 88 161 04035

Office: CALIFORNIA SERVICE CENTER

Date: FEB 16 2007

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: 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. Any further inquiry must be made to that office.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the District Director, San Francisco, California, reopened, and denied again by the Director, California Service Center. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The directors 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 legacy Immigration and Naturalization Service (INS) relating to the applicant's claim of employment for [REDACTED] at [REDACTED]

On appeal from the initial decision, the applicant reasserted the veracity of his employment claim for [REDACTED]. The applicant submitted a photocopied letter from [REDACTED] along with evidence of [REDACTED]'s employment in agriculture.

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 worked 94 man-days picking citrus fruits for farm labor contractor [REDACTED] at [REDACTED] in Kern County, California from May 1985 to May 1986.

In support of the claim, the applicant submitted a Form I-705 affidavit and a separate employment statement, purportedly signed by [REDACTED] who attested to the applicant's employment with [REDACTED] from November 7, 1985 to March 6, 1986.

On July 15, 1988, the district director denied the application based on adverse evidence acquired by the legacy INS regarding the applicant's claimed employment for [REDACTED]. On appeal, the applicant submitted a letter from [REDACTED] who indicated he incorrectly included [REDACTED] as the applicant's only place of employment "because I thought I was saving time and effort." [REDACTED] asserted that man-days accrued after January 1986 represented work performed at other farms and ranches.

Subsequently, it was determined that the applicant had not been apprised of any adverse evidence prior to the denial of his application. As such, the district director's decision was withdrawn and the proceedings were reopened for review.

In attempting to verify the applicant's claimed employment, the legacy INS acquired information which contradicted the applicant's claim. The payroll secretary of Nickel Enterprises, parent company of [REDACTED] stated that [REDACTED] contract expired in January 1986 and that [REDACTED] did not provide any workers after that date. This information has since been corroborated by the operations manager of Nickel Enterprises, who asserted that [REDACTED]'s employment at [REDACTED] farming operations ended January 15, 1986. As the applicant did not claim to have worked prior to November 1985, he could not have accrued 90 days by January 15, 1986.

On May 17, 2001, the applicant was advised in writing of the adverse information obtained by the legacy INS, and of its intent to deny the application. The applicant was granted thirty days to respond. The record contains no response to the director's notice.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on September 25, 2002. The applicant has neither addressed the subsequent Notice of Decision nor provided any evidence to overcome the director's findings.

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.).

On appeal from the initial decision, the applicant submitted a document from [REDACTED], who indicated that he had erred in stating that applicants worked only at [REDACTED] when they actually at various farms and ranches. However, neither the applicant nor [REDACTED] identified any other specific farm or ranch at which the applicant allegedly worked. That omission renders the applicant's employment claim less verifiable and not amenable to verification.

Officials of Nickel Enterprises have confirmed that [REDACTED] did not work at [REDACTED] after *January 15, 1986*. The applicant has seriously impaired his credibility by maintaining that he worked at [REDACTED] until *March 6 1986*, but submitting no credible documentary evidence in support of this contention. The applicant's credibility further deteriorated when, faced with evidence that his initial submission was fraudulent, he amended his claim to include employment at other unidentified farms and ranches. Therefore, the documentary evidence 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.

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