



U.S. Citizenship  
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FILE: [REDACTED]  
XEC 88 123 1005

Office: LOS ANGELES

Date: JUL 10 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. 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 initially denied by the Director, Western Service Center. The case was subsequently reopened and denied again by the District Director, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The service center director denied the application on January 13, 1992, because the applicant failed to file a complete Form I-700 application including all required supporting documentation.

The district director subsequently reopened the case and denied the application again because the applicant failed to credibly establish the performance of at least 90 man-days of qualifying agricultural employment during the twelve-month period ending on May 1, 1986.

On appeal, the applicant reiterates her claim and submits additional evidence in support of her claim.

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 Immigration and Nationality Act (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 record reveals that the applicant was initially admitted to the United States on March 14, 1988, as a preliminary applicant for temporary resident status as a special agricultural worker. The applicant subsequently submitted the original Form I-700, but she failed to submit the required supporting documentation or to appear for her legalization interview as scheduled.

The service center director denied the application on January 13, 1992, because the applicant failed to file a complete Form I-700 including all required supporting documentation and because she failed to appear for her legalization interview as scheduled.

On appeal, the applicant submitted a completed Form FD-258 FBI fingerprint card, a Form I-693 Medical Examination report, and a Form I-705 employment affidavit signed by [REDACTED] of [REDACTED] in Riverside, California. [REDACTED] stated in the affidavit that the applicant worked for him for "98 man-days tieing [sic] and picking grapes" during the period from July 2, 1985 to April 23, 1986.

The case was subsequently reopened and the applicant was scheduled for her legalization interview on June 26, 2006. The notes of the interviewing officer indicate that the applicant stated during her interview that she first entered the United States without inspection in July 1985 and worked in the fields picking and packaging grapes in Coachella, California. She claimed that she worked 40 hours per week Monday through Friday, sometimes Saturdays, and was paid \$5.75 per hour. She stated that she was paid by check, but was unable to remember the foreman's name.

On July 7, 2006, the district director issued a notice informing the applicant of her intent to deny the application because of contradictions in the applicant's testimony during the legalization interview. Specifically, the district director stated that the applicant claimed that she was paid a wage of \$5.75, but the minimum wage was not \$5.75 per hour in 1985. The district director further stated that there was a contradiction between the applicant's claimed dates of employment on the Form I-700 and her testimony during her legalization interview that she started working picking grapes in July 1985.

The applicant, in response, submitted an affidavit dated August 2, 2006, from [REDACTED]. [REDACTED] stated in the affidavit that his mother [REDACTED] worked seasonally with [REDACTED] for over 20 years, from 1972 to 1994. [REDACTED] explained that in 1985, farm workers on his mother's crew were paid \$5.25 per hour. [REDACTED] stated that his mother passed away on July 9, 2002, but he was submitting with his affidavit photocopies of 1985 Forms W-2, Wage and Tax Statement, for his mother and for the applicant. The Form W-2 relating to the applicant indicates that she earned \$3,087.00 in 1985.

[REDACTED] stated that his mother had retained copies of many of her employees' Forms W-2 because the company would give them to her to distribute to her crew, but many times the farm workers would not claim them because they didn't file taxes, as was the case with the applicant. [REDACTED] explained that his knowledge is based on the fact that during the period in question, he was a college student and would help his mother in the fields during the summer months.

On March 15, 2007, the district director denied the application because she found that the applicant had not credibly established her claim of 98 man-days of qualifying agricultural employment during the period from May 1, 1985 to May 1, 1986. The district director stated in the denial decision that the affidavit from [REDACTED] was not sufficient to corroborate the applicant's claim because it was not verifiable and appeared to have been written by a third party. The district director further stated that the applicant had not filed any independent evidence such as income tax returns to corroborate her claim of qualifying agricultural employment for [REDACTED] during the period in question.

On appeal, the applicant submits photocopies of her Forms 1040, U.S. Individual Income Tax Return, for the years 1985 and 1986. The applicant explains that she has moved many times and has misplaced or lost many of her records from the 1985-86 period. The applicant states:

My work in 1985 had to do with picking and packing grapes which in the Coachella Valley occurs in the months of May, June, and July. After we would go to the Bakersfield area where the grape season would continue until October.

The applicant's claim on appeal that the grape picking season in Coachella Valley of California occurs in May, June, and July contradicts the information she previously provided during her legalization interview and also the information on the Form I-705 signed by [REDACTED]. The applicant stated during her legalization interview that she first entered the United States in July 1985

and worked picking grapes until November 1986, at which time she left the United States and returned to Mexico. According to the applicant's own testimony, she did not enter the United States until July 1985, the last month of the grape picking season in the Coachella Valley of California.

The applicant states on appeal that when the grape picking season in the Coachella Valley of California ended in July, the workers would go to the Bakersfield area of California, where the grape picking season continued until October. [REDACTED] stated in his Form I-705 affidavit that the applicant worked for him from July 2, 1985 to April 23, 1986 picking grapes at his farm in the Coachella Valley of California. This statement contradicts the applicant's claim on appeal that the farm workers would leave the Coachella Valley of California in July and go to Bakersfield, California, where they would continue to pick grapes until October. The applicant cannot have worked for [REDACTED] from July 1985 to April 1986 if the grape growing season in Coachella Valley, California ended in July 1985. If the applicant worked for another farmer in Bakersfield, California after July 1985, she has not claimed this employment or submitted any evidence to corroborate such a claim.

Furthermore, the applicant claimed during her legalization interview that she was paid \$5.75 per hour for picking and packing grapes. [REDACTED] stated in his affidavit that the farm workers at [REDACTED] were paid \$5.25 per hour. This contradicts the applicant's claim during her legalization interview that she was paid \$5.75 per hour. Moreover, the current United States minimum wage is \$5.15 per hour. In 1985 the United States minimum wage was \$3.35 per hour. It is highly unlikely that farm workers in 1985 would have been paid \$2.40 per hour more than the minimum wage at that time. The applicant has not provided any explanation for these discrepancies in her claimed dates of employment and her hourly pay rate.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. Further, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

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.).

In this case, the applicant has not provided any evidence to overcome the discrepancies and contradictions noted above. These contradictions and discrepancies raise serious questions regarding the credibility of the applicant's 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.