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U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

MAR 06 2007

XEM 88 016 07075

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:

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 Director, Western Service Center, and is now before the Administrative Appeals Office 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 legacy Immigration and Naturalization Service (INS) relating to the applicant's claim of employment for [REDACTED] at [REDACTED].

On appeal, the applicant provides additional affidavits from [REDACTED].

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 95 man-days picking citrus fruits for farm labor contractor [REDACTED] in Kern County, California from October 1985 to February 1986.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment statement signed by [REDACTED] attesting to the applicant's employment at [REDACTED] from October 30, 1985 to February 28, 1986.

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] Ranch, stated that Mr. [REDACTED] contract expired in January 1986 and that Mr. [REDACTED] did not provide any workers after that date.

On February 18, 1992, 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 applicant, however, failed to respond to the notice.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on March 31, 1992. On appeal, the applicant submits two affidavits, both dated March 10, 1992 from [REDACTED]. In one affidavit, Mr. [REDACTED] reaffirmed the applicant's employment claim. In the other, the affiant asserted that "[REDACTED]" was merely a geographic description of some of the places and companies that he was working for at that time. The affiant also indicated that he was released from [REDACTED] on March 6, 1986.

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 states that he/she worked for [REDACTED], and not for [REDACTED], and that he/she "worked at many different ranches." This statement directly contradicts the assertion that "the worksite location [is] accurately documented." Furthermore, this statement is a repeatedly photocopied "form" affidavit with blank spaces for personal information about the applicant.

Officials of [REDACTED] 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 R [REDACTED] until February 28, 1986, but submitting no credible documentary evidence in support of this contention. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

It is noted that, in a letter dated November 5, 1993, the operations manager of [REDACTED] informed the legacy INS that, according to their records, [REDACTED] "supplied labor for our farming operations at various times during the period May 1, 1985 through May 1, 1986 . . . Since (January 15, 1986), they were no longer used to provide labor service for [REDACTED] . . . they provided labor to [REDACTED] a total of 77 days, from May 1, 1985 to January 15, 1986."

The above letter indicates that [REDACTED] in fact, consist of more than one farming operation, and that [REDACTED] did provide labor for these operations. However, the credibility of the applicant's claim is undermined by Mr. [REDACTED]'s statement that the Camachos provided labor to [REDACTED] farming operations for less than 90 days during the qualifying period, and that the [REDACTED] did not provide any labor to the farm after January 15, 1986.

Even if it were to be determined that the applicant did work for Mr. [REDACTED], it could not be concluded that he worked at least 90 days as the period from October 30, 1985 to January 15, 1986 does not encompass 90 days.

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.