



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
XRV 88 101 1032

Office: CALIFORNIA SERVICE CENTER

Date: NOV 19 2007

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. 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, Western 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

On appeal, the applicant claims he also performed agricultural work for a different employer during the requisite periods and submits evidence to corroborate his claim. It is noted that the record contains a Form G-28, Notice of Entry of Appearance as Attorney or Representative, signed by [REDACTED] Legal Filing Service, [REDACTED] Fontana, CA 92335. [REDACTED] indicated on the Form G-28 that she was an attorney and a member in good standing of the State Bar of California. However, a search of the State Bar of California website, <http://members.calbar.ca.gov/search/member.asp>, reveals that [REDACTED] is not a member in good standing of the State Bar of California. Furthermore, [REDACTED] is not authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant. See <http://usdoj.eoir/statspub/raroster.htm>. Therefore, this decision will be furnished to the applicant only.

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 for 103 man-days picking chilis in Santa Maria, California, for [REDACTED] during the period from June 11, 1985 to February 17, 1985 [sic]. In support of the claim, the applicant submitted a Form I-705 affidavit and a separate affidavit dated January 9, 1988, from [REDACTED] who identified himself as a farm labor contractor. [REDACTED] indicated that the applicant worked for him for 103 days picking chilis in Santa Maria, California, during the period from May 1985 to December 1985.

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 that contradicted the applicant's claim. Specifically, [REDACTED] provided the Service with a list of former employers for whom he provided employment verification documents. The applicant's name did not appear on the employee lists provided by [REDACTED]

On June 28, 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 regarding his claim of qualifying agricultural employment for [REDACTED], and denied the application on September 6, 1991.

On appeal, the applicant states that he was unable to locate [REDACTED] in order to obtain another document to corroborate his claim of qualifying agricultural employment for [REDACTED]. The applicant explains that when he was unable to locate [REDACTED] he obtained employment verification documents from another employer for whom he performed agricultural employment during the requisite period. The applicant submits a Form I-705 from [REDACTED] who identified himself as a farm labor contractor. [REDACTED] indicated that the applicant worked for him for 120 man-days harvesting citrus during the period from May 1, 1985 to May 1, 1986. The applicant also provided a separate employment document from [REDACTED] stating that the applicant worked for him for 120 days during the period from May 1, 1984 to May 1, 1985.

This statement contradicts [REDACTED] statement on the Form I-705 that the applicant worked for him during the period from May 1, 1985 to May 1, 1986. The applicant has not provided any explanation for this discrepancy in his claimed dates of employment for [REDACTED].

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).

The applicant also submits fill-in-the-blank affidavits from [REDACTED] and [REDACTED]. Both individuals attest that they worked with the applicant picking oranges for [REDACTED]. However, neither affiant provides the exact dates of the period during which they purportedly worked with the applicant picking oranges for [REDACTED]. Therefore, these affidavits are not sufficient to corroborate the applicant's claim.

It is noted that the applicant's claim to have performed qualifying agricultural employment for a different employer during the requisite period was introduced into these proceedings only *after* damaging information had been obtained regarding the applicant's original claim of having worked for [REDACTED] during the requisite period. An applicant raises questions of credibility when asserting a substantially revised claim to eligibility for a benefit that can only be granted by virtue of the revised claim. In such instances, Citizenship and Immigration Services may require credible evidence to support the substantially revised claim as well as a complete explanation concerning the applicant's failure to advance this claim initially. The very purpose of the Form I-700 application is to allow the applicant to claim the qualifying agricultural employment that entitles him to the benefits of status as a special agricultural worker.

The applicant's advancement of a new employment claim does not address, resolve, or diminish the credibility issues raised by the adverse evidence as regards the applicant's initial claim. In addition, there is a discrepancy in [REDACTED] statements regarding the dates of the applicant's

employment for him. Therefore, the applicant's overall credibility remains in question. For this reason, the applicant's new claim of employment for J. [REDACTED] will not serve to fulfill the qualification requirements necessary for status as a special agricultural worker.

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 that 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.).

[REDACTED] provided the Service with a list of former employers for whom he provided employment verification documents. The applicant's name did not appear on the employee lists provided by [REDACTED]. The applicant has failed to overcome this adverse evidence, which directly contradicts his employment claim. Therefore, the documentary evidence submitted by the applicant in support of his claim of qualifying agricultural employment for [REDACTED] during the requisite period cannot be considered as having any probative value or evidentiary weight. Furthermore, as previously stated, the applicant's revised claim of qualifying agricultural employment for J. [REDACTED] during the requisite period cannot be accepted.

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.