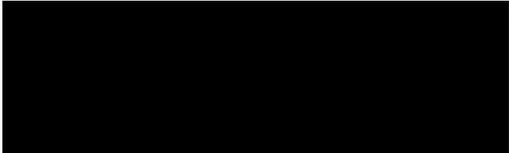


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U.S. Citizenship  
and Immigration  
Services



24

FILE: [Redacted]

Office: CALIFORNIA SERVICE CENTER

Date: **DEC 27 2004**

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, Director  
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 relating to the applicant's claim of employment for [REDACTED]

On appeal, the applicant reiterates that he worked for Mr. [REDACTED] claimed. He asserts that other aliens who made the same claim were approved, and provides further evidence regarding his own case.

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 cut, picked and packed lettuce and green onions for 107 days for [REDACTED] at unspecified farms in Maricopa County, Arizona from September 1985 to March 1986. In support of his claim, the applicant submitted a corresponding employment statement and a Form I-705 affidavit signed by [REDACTED]. On neither document did the affiant name the farms at which the employment purportedly took place.

In the course of attempting to verify the applicant's claimed employment, the Immigration and Naturalization Service (the Service) acquired information that contradicted the applicant's claim. On January 22, 1990 [REDACTED] admitted in a signed, sworn statement that all of the employment documents signed by him were fraudulent.

On March 20, 1991 the director advised the applicant in writing of the adverse information obtained by the Service, and of his intent to deny the application. The applicant failed to respond, and the director denied the application.

On appeal, the applicant states that his employment claim is valid. He furnishes a statement from [REDACTED] who asserts that he saw the applicant working in the fields picking onions and other vegetables during 1985 and 1986. Another affidavit, from [REDACTED] attests to employment that took place long after the 1985-86 period. Finally, [REDACTED] states in a new affidavit that the applicant did indeed work with him in 1985 and 1986. Mr. [REDACTED] explains that he was not certain of some of the information he gave in his earlier statement to the Service, and that he should have been more specific.

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.).

admitted under oath that all employment documents that he prepared are fraudulent. In his new statement he partially recants his sworn statement and indicates that he was not certain of some things when he gave the sworn statement. It is noted that the officer who took the sworn statement from Mr. asked him three times if it would be safe to say that all of the affidavits he had submitted were false, and Mr. answered "yes" each time. It does not seem that Mr. was uncertain at all, as he gave the same forthright answer three times.

It is further noted that neither the applicant nor has provided the names of the farms at which the purported employment took place. Without such information, it is not possible to independently verify the claimed employment.

The documents submitted on appeal cannot be deemed to overcome the derogatory evidence. The applicant has failed to 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.