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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship
and Immigration
Services



FILE:



Office: CALIFORNIA SERVICE CENTER

Date FEB 02 2004

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:

Attached is the decision of the Administrative Appeals Office in your case. The file has been returned to the service center that processed 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.

for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, California 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 acquired by the Service (now Citizenship and Immigration Services, or CIS) relating to the applicant's claim of employment for [REDACTED]

On appeal, the applicant requested a copy of the record of proceedings. The record shows that CIS subsequently issued a letter to the applicant via certified mail on August 7, 2002, asking if he still desired a copy of the record. The record contains a postal return receipt signed by the applicant on August 12, 2002, specifically acknowledging his receipt of this letter. However, as of the date of this decision, the record shows that the applicant failed to submit any response to this letter. Therefore, the record shall be considered complete.

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).

On the Form I-700 application, the applicant claimed to have performed 115 man-days harvesting strawberries for [REDACTED] at Santa Maria Berry Farms in Santa Barbara County, California from May 1985 to September 1985.

In support of his claim, the applicant submitted a corresponding Form I-705 affidavit purportedly signed by [REDACTED]

In the course of attempting to verify the applicant's claimed employment, CIS acquired information which contradicted the applicant's claim. On January 29, 1990, a CIS officer interviewed the office manager for Santa Maria Berry Farms. That official indicated that Mr. [REDACTED] employed "not more than two (2) to three (3) individuals at any given time . . . (and these) individuals were continuously being replaced by newly hired employees." Mr. [REDACTED] had sub-leased 2.29 acres of farm land in 1985, and 2.1 acres in 1986. The farm's office manager, speaking from 22 years of experience in farming, stated that "there is only a need for two (2) persons per acre of land in strawberry farming."

Furthermore, in a sworn affidavit dated July 27, 1989 [REDACTED] stated that he had been advised that his signature had been forged on employment documents, and that he had never authorized anyone to sign such documents in his name. Mr. [REDACTED] further stated that "(a)ny document which purports to bear my signature in reference (to) any INS application should therefore be regarded as null and void."

On March 14, 1991, CIS attempted to advise the applicant in writing of the adverse information obtained by CIS, and of CIS's intent to deny the application. However, the record shows that the notice was returned by the United States Postal Service marked as "addressee unknown."

The director determined that the applicant had failed to overcome the adverse evidence and denied the application.

On appeal, the applicant stated it was his belief that he was eligible for temporary residence as a special agricultural worker because he had submitted sufficient evidence to support his claim of agricultural employment.

However, the applicant failed to address the fact that his alleged employer, Juan Ramirez, specifically stated that all employment affidavits bearing his name should be considered to be "null and void."

Generally, the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and amenability to verification as stated in 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's purported employer, has denounced employment affidavits in his name as forgeries and declared all such documents to be "null and void." An official of Santa Maria Berry Farms has indicated that only hired small numbers of workers who were frequently replaced. The applicant has not overcome this adverse information which directly contradicts her claim. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has 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.