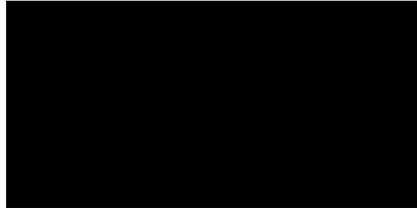




U.S. Citizenship
and Immigration
Services

LH



FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **OCT 22 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:

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

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prevent clearly unwarranted
invasion of personal privacy**

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 Immigration and Naturalization Service (the Service) relating to the applicant's claim of employment for [REDACTED]

On appeal, the applicant claimed that he worked for [REDACTED] and other foremen. He requested a hearing in order to present proof.

With regard to the applicant's request for a hearing, such a request must set forth specific facts explaining why a hearing, or oral argument, is necessary to supplement the appeal. 8 C.F.R. § 103.3(b). Oral argument will be denied in any case where the appeal is found to be frivolous, where oral argument will serve no useful purpose, or where written material or representations will appropriately serve the interests of the applicant. The applicant's request does not set forth an explanation of why oral argument is necessary. Accordingly, the request for oral argument is denied.

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 picked grapes for [REDACTED] at E&S Grape Growers for 97 days from July 1985 to November 1985, and at Brookside Farms for 86 days from December 1985 to April 1986.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit signed by [REDACTED] who identified himself as a farm labor contractor. [REDACTED] referred to Brookside Ranch instead of Brookside Farms, but there is no indication that he was identifying a different farm than what the applicant had referred to as Brookside Farms.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. The secretary for E&S Grape Growers informed the Service that [REDACTED] had worked for the farm as a laborer, not as a foreman or contractor. The manager of E&S Grape Growers asserted that all employees are paid by check.

The Service attempted to call Brookside Ranch at the number given on the Form I-705 affidavit. However, the number had been disconnected. The Service then contacted directory assistance to obtain a working telephone number for the farm. The information service indicated that there was no listing.

The applicant was advised in writing of the adverse information obtained by the Service, and of the Service's intent to deny the application. He was granted thirty days to respond. In response to the notice, the applicant stated that he had worked at E&S and Brookside Ranch.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application. On appeal, the applicant claims that he worked for [REDACTED] and other foremen. He does not provide the names of the other foremen, and fails to furnish any further evidence.

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.).

Officials of E&S Grape Growers have denied that [REDACTED] ever served in a supervisory capacity at that farm. They stated that he was a farm worker who had no access to company records. This information, coupled with the Service's inability to contact Brookside Ranch, indicates that the application is highly questionable, is not amenable to verification and, therefore, fails to meet the evidentiary requirements set forth in 8 C.F.R. 210.3(b) and (c). The applicant has provided no documentary evidence of any kind to refute the derogatory information or to demonstrate that Enrique Rivera supervised any agricultural workers at any site during the qualifying period.

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.