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U.S. Citizenship  
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Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: APR 29 2005

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

**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) regarding the applicant's claim of employment for [REDACTED]

On appeal, the applicant reiterates that he did work in the fields, and that he was paid in cash. He states that he worked at another farm, and will provide evidence of that if asked to. He also states that the Service already has all of the documents that prove that [REDACTED] was and is a foreman.

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, provided he is otherwise admissible under section 210(c) of the Act and is not ineligible under 8 C.F.R. § 210.3(d).

On the Form I-700 application, the applicant claimed 135 man-days picking citrus fruits for [REDACTED] at San Gabriel Valley in San Bernardino County, California from August 1985 to March 1986. In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment verification letter purportedly signed by [REDACTED]. The applicant's supporting documents indicate Mr. [REDACTED] was the applicant's foreman.

In attempting to verify the applicant's claimed employment, the Service acquired information that contradicted the applicant's claim. Specifically, the Service received a letter dated March 26, 1990, from [REDACTED] General Manager-Secretary of AG Employers, Inc. (formerly San Gabriel Valley Labor Association). [REDACTED] indicated [REDACTED] was employed by San Gabriel Valley Labor Association strictly as a forklift operator from January 1985 to March 1, 1986. From April 12, 1986 to July 3, 1988, [REDACTED] was employed as the foreman for AG Employers. Therefore, [REDACTED] was a foreman for only 20 days during the qualifying period.

In addition, [REDACTED] was never given authority to sign employment verifications, nor was he given access to payroll records. [REDACTED] indicated that all employment verifications from the company were accompanied by payroll records, and that she personally had signed almost all such verifications, except for a small number which were signed by two other officials of the company. The Service found it was in possession of approximately 1,500 employment verifications provided by [REDACTED] all of which were supported only by [REDACTED] alleged personal memory of the applicants.

On May 6, 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 applicant submitted a copy of a letter from [REDACTED] dated May 24, 1991, on Redlands Foothill Groves letterhead. [REDACTED] indicated he had been an inspector at San Gabriel Valley during the qualifying period, and that [REDACTED] had indeed been a foreman during that time. With regard to [REDACTED] occupation as a driver, [REDACTED] stated it was [REDACTED] duty as a foreman to drive the workers to and from the fields.

The applicant also provided a letter from [REDACTED] dated July 1, 1987, which indicated that [REDACTED] was employed at San Gabriel Valley as a "Foreman-Driver" from 1979 to 1987.

The applicant claimed that he did indeed work for [REDACTED] for cash, and asserted that San Gabriel records were burned at the end of 1986, and hardly any written information was left.

The director determined that the applicant had failed to overcome the adverse evidence, and denied the application. On appeal, the applicant again reiterates that he worked in the fields for cash. He claims he worked at another farm, and will provide evidence of that if necessary. Finally, he asserts that the Service has all of the documents that prove that [REDACTED] was and is a foreman.

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). 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] states that [REDACTED] was a foreman whose duties included driving workers to and from the fields. However, [REDACTED] letter of March 26, 1990 specifies that [REDACTED] had been a forklift driver for most of the qualifying period, rather than the driver of a vehicle that transported workers. This serious discrepancy in [REDACTED] letter casts serious doubt on [REDACTED] unsubstantiated claim to have witnessed [REDACTED] at work during the qualifying period. [REDACTED] unsupported and general letter, therefore, cannot be considered sufficient to overcome [REDACTED] letter of March 26, 1990, which is very specific in its details, and supported by company payroll records.

The 1987 letter from [REDACTED] provided by the applicant states that [REDACTED] was employed as a "Foreman-Driver" from 1979 to 1987. However, this letter does not establish that [REDACTED] was a foreman during the time claimed on the applicant's documentation, nor does it explicitly contradict Ms. [REDACTED] later assertions to the Service. [REDACTED] detailed letter of March 26, 1990, supersedes and clarifies this general and ambiguous letter of 1987.

In the applicant's documentation, [REDACTED] attested that the applicant had worked 135 man-days. [REDACTED] stated that he knew the extent of the applicant's employment due to his personal knowledge as a foreman. However, the letter from AG Employers indicates that [REDACTED] was employed there as a foreman for only 20 days during the qualifying period.

The adverse information acquired by the Service regarding the applicant's employment for [REDACTED] directly contradicts the applicant's claim. The applicant has not overcome such derogatory evidence. In addition, while the applicant has referenced other employment, he has failed to provide any specifics and relating documentation.

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 temporary resident status as a special agricultural worker.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.