



U.S. Citizenship
and Immigration
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) relating to the applicant's claim of employment for [REDACTED]

On appeal, the applicant states that she did work for [REDACTED] and that she was paid in cash. She requests oral argument.

Pursuant to 8 C.F.R. 103.3(b)(1), an applicant must explain in writing specifically why oral argument is necessary. The applicant has only stated that she desires oral argument because the employer never paid her by check. The request for oral argument is denied because the issue of claimed payment can be adequately addressed in writing.

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 thinned and weeded lettuce for 92 days for [REDACTED] from May 1, 1985 to May 1, 1986. The record shows that the I-700 application was prepared by the office of [REDACTED]

In support of her claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter signed by [REDACTED]

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claims. [REDACTED] admitted to officers of the Service that [REDACTED] was nonexistent, and that he had produced fraudulent employment documents for special agricultural worker applicants.

The director attempted to advise the applicant in writing of the adverse information obtained by the Service, and of the Service's intent to deny the application. However, the notice was returned to sender. The director later concluded that the applicant had not overcome the derogatory evidence, and denied the application.

On appeal, the applicant reiterated her employment claim. Subsequently, an individual filed a Freedom of Information Act request on behalf of the applicant, and the Service provided a copy of the record.

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.)*.

On June 29, 1988, [REDACTED] and two other individuals were indicted by a grand jury in Phoenix, Arizona for violation of 8 U.S.C. § 1160(b)(7)(A)(ii). This section concerns the production and sale of fraudulent documentation relating to the Special Agricultural Worker Program under the Immigration Reform and Control Act of 1986.

On July 14, 1988, during an interview before Service officers, [REDACTED] admitted to having signed an estimated 1,500 fraudulent Form I-705's and employee verification letters as employer and affiant of the nonexistent [REDACTED]. [REDACTED] further admitted that, for each fraudulent document packet that he prepared, he received \$100 plus twenty percent of the total price of the packet.

According to an investigative report contained in the record, [REDACTED] implicated in the conspiracy several individuals employed at the office of [REDACTED] the Qualified Designated Entity whose office prepared the applicant's application. Among the individuals thus implicated were [REDACTED] himself and [REDACTED] an employee of [REDACTED] who was indicted along with [REDACTED]. [REDACTED] stated that the fictitious name [REDACTED] originated in [REDACTED] office, and that [REDACTED] owed him over \$5,000.

[REDACTED] under federal indictment for document fraud, admitted to Service officers that [REDACTED] did not exist and that he received payment for the fraudulent documents that he executed. The applicant has not overcome such derogatory evidence that directly contradicts the applicant's 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 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.