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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services



L4

FILE:



Office: CALIFORNIA SERVICE CENTER

Date: AUG 05 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. 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 (INS), now Citizenship and Immigration Services (CIS) relating to the applicant's claim of employment for [REDACTED]

On appeal, the applicant requested that his documentation be reexamined.

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 performed 95 man-days cutting asparagus at Desert Sun, Inc. in Riverside, California from January 1986 to April 1986..

In support of this claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment declaration, both signed by [REDACTED] who identified himself as a foreman.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. The Service obtained the payroll records of Desert Sun, Inc.; these records indicate that [REDACTED] worked less than 65 days for the farm during the qualifying period.

On December 9, 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.

In response to the Service's notice, the applicant submitted a letter of more recent non-qualifying employment.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on January 22, 1992. On appeal, the applicant reaffirmed his claimed employment.

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.)*.

According to farm records, [REDACTED] worked at Desert Sun, Inc., for less than 65 days during the qualifying period, and therefore would not have been in a position to attest to the applicant's claimed 95 man-days. The applicant has not overcome this derogatory evidence which directly contradicts his claim. Therefore, the documentation submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has failed to establish credibly 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.