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U.S. Citizenship
and Immigration
Services



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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JAN 03 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.

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

On appeal, the applicant claims that the director did not perform a full legal analysis of his application. He refers to the affidavit he submitted in support of his application.

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 to have picked lemons for 120 days for [REDACTED] at [REDACTED] Association in San Bernardino County, California from May 1985 to May 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. Reyes was the applicant's foreman.

In attempting to verify the applicant's claimed employment, the Service acquired information which 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 [REDACTED] Labor Association). [REDACTED] indicated [REDACTED] was employed by [REDACTED] Labor Association strictly as a fork lift 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.

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, but he failed to do so. The director determined that the applicant had failed to overcome the adverse evidence, and denied the application. On appeal, the applicant states that his affidavit did not receive proper consideration.

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 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.)

In the affidavits, [REDACTED] attested that the applicant had worked 120 days [REDACTED] stated 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.

In light of the adverse information acquired by the Service, the affidavits submitted do not constitute independent corroborative evidence sufficient to prove eligibility for status as a special agricultural worker. While 8 C.F.R. § 210.3(c)(3) does indicate that an applicant may establish a claim to eligibility through affidavits submitted under oath by agricultural producers, foremen, farm labor contractors, union officials, fellow employees or other persons with specific knowledge of an applicant's employment, the regulation does not indicate or imply that such evidence shall always be sufficient to overcome adverse information acquired through Service attempts to verify a claim.

The adverse information acquired by the Service regarding the applicant's employment for Faustino Reyes directly contradicts the applicant's claim. The applicant has not overcome such derogatory evidence. He 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, he is ineligible for temporary resident status as a special agricultural worker.

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