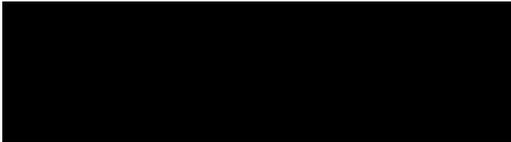


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U.S. Citizenship  
and Immigration  
Services



24

FILE: [Redacted]

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE: Applicant: [Redacted]

JAN 20 2005

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

**PUBLIC COPY**

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 applicant's temporary resident status was terminated by the Director, Western Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director terminated the applicant's status upon concluding that the applicant had acquired temporary residence by fraud or misrepresentation. This decision was based on information provided by [REDACTED] for whom the applicant claimed to have worked.

On appeal, the applicant states that he did work for [REDACTED] as claimed.

The temporary resident status of an alien may be terminated if it is determined by a preponderance of evidence that the adjustment to temporary residence was the result of fraud or willful misrepresentation of a material fact. 8 C.F.R. § 210.4(d)(2)(i).

According to 8 C.F.R. § 210.5, an alien who has been granted temporary resident status before November 30, 1988 under section 210(a)(1) of the Act, and has maintained that status satisfactorily, shall be adjusted to lawful permanent resident status as of December 1, 1990. 8 C.F.R. § 210.4(d)(3)(ii) states that termination proceedings must be commenced before the alien becomes eligible for the adjustment to lawful permanent resident status.

In this case, the applicant was granted temporary resident status on August 16, 1989. He was notified by a letter dated October 10, 1990 of the director's intent to terminate his temporary resident status. The applicant was allowed 30 days in which to respond. By notifying the applicant on October 10, 1990 of the intent to terminate, the director met the statutory requirement of commencing termination proceedings prior to December 1, 1990.

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). 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 application, Form I-700, the applicant claimed to have harvested grapes for 102 days for [REDACTED] Kern County, California from May to August 1985. In support of the claim, the applicant submitted a corresponding affidavit purportedly signed by [REDACTED]

In the course of attempting to verify the applicant's claimed employment, the director acquired information which contradicted the applicant's claim. On January 4, 1988, in United States District Court, Southern District of California, [REDACTED] pled guilty to violating one count of 18 U.S.C. 1001 and 2, aiding and abetting false statements and writings used in support of applications filed for special agricultural worker status.

[REDACTED] was informed that the Service received more than 2,200 Special Agricultural Worker applications from individuals who allege to have worked for [REDACTED] in Kern County, California. On April 10, 1990, [REDACTED] provided a voluntary sworn statement "to assist this agency in clearing up problems that I and persons signing my name to these employment affidavits have created." In his statement,

Mr. [REDACTED] stated that the only work he performed in the years 1985 and 1986 relating to grapes was to rent tractors to harvesting crews and to periodically check these tractors for needed repairs. Mr. [REDACTED] further stated that the only agricultural workers that he employed in the years 1985 and 1986 was a crew of 35 individuals that he hired from the local Bakersfield, California area. Mr. [REDACTED] employed these workers to harvest cotton, and he did not sign any employment verification letters or I-705 affidavits for any of his cotton harvesting crew, as they were all legal residents of the United States.

[REDACTED] specified that each and every employment verification letter and Form I-705 that indicates [REDACTED] as the affiant is false, fictitious, and fraudulent. Mr. [REDACTED] also advised the Service that he was aware of other individuals who signed verification letters using the name [REDACTED] and that these signed documents represent a forgery of his name and should also be considered false, fictitious, and fraudulent.

The applicant was advised in writing of the adverse information, and of the director's intent to terminate the applicant's status. The applicant was granted thirty days to respond. He furnished a September 12, 1990 statement from [REDACTED] who indicated that she knew the applicant since May 1985, and that the applicant had worked with [REDACTED]. Ms. [REDACTED] did not explain how she knew that the applicant had worked for Mr. [REDACTED]. She stated that the applicant "resides at [REDACTED] in San Bernardino, California 92405. His telephone number is [REDACTED] if you need to contact this person." It is noted that Ms. [REDACTED] provided the applicant's address and phone number, but not her own, so the director would have been unable to attempt to contact her for verification purposes.

The applicant also submitted an affidavit from [REDACTED] apparently dated November 3, 1990, who stated that he and the applicant had picked grapes for [REDACTED] in May to August 1985. Mr. [REDACTED] did not state that he had applied for, much less been granted, special agricultural worker status. The director concluded that the applicant had failed to overcome the adverse information, and terminated the applicant's status.

On appeal, the applicant states that he has submitted all of the documentation that was requested of him, and that is all that he has to offer. He points out that both he and [REDACTED] insist he worked as claimed, while only Mr. [REDACTED] says otherwise. He asserts that if he could see a list of Mr. [REDACTED] workers, he could get some of them to corroborate his claim.

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.).

The applicant's claim is contradicted by the fact that [REDACTED] admitted in a very straightforward and clear manner that all documentation he signed on behalf of individuals applying for special agricultural worker status was false. The applicant cannot be said to have overcome this adverse evidence. As such, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

It is concluded that the applicant did acquire temporary resident status by fraud. Therefore, the termination of status shall not be disturbed.

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