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U.S. Citizenship
and Immigration
Services

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JUN 11 2010 10:41 AM

[REDACTED]

FILE: [REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE: Applicant: [REDACTED]

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.


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. It is before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish that he performed at least 90 man days of qualifying agricultural employment during the eligibility period. This decision was based on adverse information acquired by the Service relating to the applicant's claim of employment for [REDACTED]

On appeal, the applicant requested a copy of his file through the Freedom of Information Act. The Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS) complied with the request on January 28, 1993 and again on January 25, 1999. The applicant reaffirmed his claim to have performed qualifying agricultural employment.

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 performed 98 man-days employment picking melons at [REDACTED] in Merced, California from July 8, 1985 to October 16, 1985.

In support of the claim, the applicant submitted a Form I-705 affidavit and a separate employment letter, both purportedly signed by [REDACTED]. The supporting documentation indicates that the applicant claimed employment for a [REDACTED]. However, the documents are signed [REDACTED].

In the course of attempting to verify the applicant's claimed employment, CIS acquired information which contradicted the applicant's claim. Specifically, [REDACTED] president of Rancho Packing Company, informed CIS that [REDACTED] had never been an employee of Rancho Packing Company.

A representative of A & F Farming, which is a farm labor contractor for [REDACTED] informed the CIS that [REDACTED] was employed by them, but only during 1986.

On November 4, 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 an employment verification letter signed by [REDACTED] who stated that he was a foreman for A & F Farming and that he worked for them from 1971 to 1974, 1976 to 1978, and from July 8, 1985 to October 16, 1986.

The director concluded the applicant had not overcome the adverse information, and denied the application on January 6, 1992. On appeal, the applicant submits a personal statement in which he describes his purported agricultural employment. The applicant stated that he was hired to pick melons by [REDACTED] and that the only company he ever heard mentioned as his employer was Rancho Packing. The applicant stated that he worked for [REDACTED] from June 1985 to the first week in October 1985 and later went back and got his employment letter from [REDACTED]. The applicant submitted four separate form affidavits from [REDACTED].

[REDACTED] All of the affiants stated that they and the applicant were farm laborers who harvested melons and worked with a tomato machine.

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)*, Civil No. S-87-1064-JFM (E.D. Cal.).

The affidavits submitted on appeal from [REDACTED] fail to provide the names of the farms on which they and the applicant purportedly worked, the number of man-days purportedly worked, or the name of the individual(s) who purportedly employed them. Therefore, the affidavits will not serve to establish the applicant's claimed employment in agriculture.

The applicant has submitted documentary evidence signed by a [REDACTED]. The applicant has also submitted documentary evidence signed by a [REDACTED]. Thus, it cannot be concluded exactly whom the applicant is claiming as his purported employer. Service investigations determined that a [REDACTED] worked for A & F Farming, but only during 1986 and for less than 90 days. The applicant has claimed employment only during 1985. In his statement submitted on appeal, the applicant claims to have begun employment in June 1985. However, the documentation he previously submitted indicates that he purportedly began employment in July 1985. In light of the aforementioned inconsistencies and CIS's inability to verify the applicant's employment, the applicant's claimed employment cannot be deemed credible.

The applicant has failed to credibly establish the performance of at least 90 man days of qualifying agricultural employment during the twelve month 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.