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U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JUN 27 2003

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.

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 (AAO) 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 provided to the Service by [REDACTED] for whom the applicant claimed to have worked.

On appeal, the applicant requested a copy of his file through the Freedom of Information Act. Citizenship and Immigration Services (CIS), formerly the Immigration and Naturalization Service (INS) complied with the request on September 29, 2004.

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 103 man-days of qualifying agricultural employment for [REDACTED] Santa Barbara County, California from May 1985 to December 1985.

In support of the claim, the applicant submitted a form employment letter, purportedly signed by Frank Vega.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. On July 30, 1989 [REDACTED] stated in a letter to the Service that he had never been a farm labor contractor, but rather was a sharecropper, foreman, and supervisor at various farms in the Santa Maria Valley in Southern California. [REDACTED] stated that his signature had been falsified on employment documents, and submitted to the Service a list of 267 names belonging to the individuals who had actually worked for him or with him. The applicant is not named on this list. [REDACTED] also informed the Service that he worked during the qualifying period only from May 6, 1985 to December 17, 1985.

On July 22, 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 record does not contain a response from the applicant.

In the notice of intent to deny, the director noted that the signatures of [REDACTED] on the applicant's supporting documents were visibly and significantly different from authentic exemplars obtained by the Service. However, the signature discrepancy cited by the director is minimal, and it does not appear that a determination can be made without forensic analysis of the signatures.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on September 20, 1991. On appeal, the applicant submitted a form affidavit purportedly signed by [REDACTED] attesting to the applicant's employment, a photocopied unsigned employment letter purported to [REDACTED], a personal statement from [REDACTED] attesting to his [REDACTED] employment in agriculture and two letters from other individuals addressing [REDACTED] employment in agriculture.

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. [REDACTED] E.D. Cal.

The documentation submitted by the applicant on appeal attests to [REDACTED] employment in agriculture, a point not contested by CIS. The affidavit regarding the applicant's employment purportedly signed by [REDACTED] attests to the applicant's employment and states that since the applicant was paid in cash, no check stubs or print outs are available. This statement appears in conflict with the fact that [REDACTED] had already provided CIS with a list of individuals who worked for him, verifying that employee records did exist. However, no mention is made of the list in the affidavit.

The applicant is not named on the list of employees provided by [REDACTED]. The applicant has not addressed nor overcome this adverse evidence which 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 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, 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.