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U.S. Citizenship
and Immigration
Services



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FILE: [Redacted]

Office: NEBRASKA SERVICE CENTER

MAR 29 2010
Date:

IN RE: Applicant: [Redacted]

PETITION: 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:



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 the matter 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 District Director, Denver, Colorado, 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.

On appeal, the applicant asserts that he worked the required number of man-days. The applicant submits additional evidence.

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 application, Form I-700, the applicant claimed to have worked an unstated number of man-days for Sam Tanaka at Tanaka Farms in Boulder, Colorado from July 1985 to October 1985.

In support of his claim, the applicant submitted a Form I-705 affidavit claiming 130 man-days employment cultivating and harvesting green vegetables for Sam Tanaka at Tanaka Farms from June 1985 to October 1985.

In attempting to verify the applicant's claimed employment, the Immigration and Naturalization Service, or the Service (now, Citizenship and Immigration Services, or CIS) acquired information which contradicted the applicant's claim. Specifically, the owner of the farm where the applicant claimed to have worked, provided the Service with a list of employees who worked on his farm during 1985. The applicant's name is not on that list.

The record indicated that, during his legalization interview, the applicant indicated that he worked using the alias [REDACTED]. Consequently, the applicant was rescheduled for a second interview at which he was to provide evidence that he and [REDACTED] were one and the same person. The applicant failed to appear and provide such evidence.

The director denied the application because the applicant failed to establish that he had worked for Tanaka Farms using the name [REDACTED]. The director also noted in his decision that [REDACTED] only worked for Tanaka Farms from July 12, 1985 to October 10, 1985, a period of time less than the applicant's claimed 130 man-days employment.

On appeal, the applicant submitted three separate Form I-705 affidavits. The applicant submitted a Form I-705 affidavit indicating that he worked for Tanaka Farms for a period of 78 man-days under the name [REDACTED]. The applicant submitted a Form I-705 affidavit indicating that he worked for Hata Farms in Fresno, California from September 10, 1985 to September 22, 1985 picking grapes for 7 man-days under the name [REDACTED]. The applicant also submitted a Form I-705 affidavit indicating that he worked at Bob Hata Farms in Fresno, California pruning vines for 10 man-days from December 20, 1985 to December 30, 1985 under the name [REDACTED].

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.).

An applicant raises serious questions of credibility when asserting a revised claim to eligibility on appeal. In such instances, the Service may require credible evidence to support the revised claim as well as a complete plausible explanation concerning the applicant's failure to advance this claim initially. The instructions to the application do not encourage an applicant to limit his claim; rather they encourage the applicant to list multiple claims as they instruct him to show the most recent employment first.

The applicant's initial claim attested to the applicant having worked 130 man-days at Tanaka Farms. The applicant's revised claim indicates that he worked 78 man-days at Tanaka Farms under the name [REDACTED]. In light of the fact that the applicant has made two entirely different claims regarding his purported employment at Tanaka Farms, it cannot be concluded that the applicant worked at Tanaka Farms under any name.

On appeal, the applicant also submitted two additional Form I-705 affidavits indicating additional employment using two additional aliases. On one of these, the applicant claimed 7 man-days employment at Hata Farms in Fresno, California from September 10, 1985 to September 22, 1985. However, other evidence submitted by the applicant indicates that the applicant was purportedly working in Boulder, Colorado during that time period. Therefore, the applicant's additional claim of employment for Hata Farms cannot be deemed credible. As such, the applicant's documentary evidence is highly questionable.

The applicant has, therefore, 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.

