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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:

XPL-88-205-2023

Office: NEBRASKA SERVICE CENTER

Date: JUL 25 2006

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, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Northern Regional Processing Facility, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant submitted employment documents which the purported employer could not verify as relating to the applicant and which differed significantly from the claim of employment as set forth in the original I-700 application.

On appeal, the applicant requested a copy of his legalization file. The Service complied with the request on March 3, 2005.

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).

The applicant was admitted to the United States as an S-9 applicant who established a preliminary claim to eligibility for temporary resident status as a special agricultural worker. The applicant was admitted for a period of 90 days in accordance with 8 C.F.R. § 210.2(c)(4)(iii), and required, within that 90 day period, to submit a complete application, along with a Fingerprint Card, Form FD-258, to any legalization office. A complete application included evidence of qualifying employment, evidence of residence, a report of medical examination and the prescribed number of photographs. 8 C.F.R. § 210.1(d).

The record indicates that, at the time of entry, the applicant signed a Service advisory statement (written in both English and Spanish) which outlined the procedures for filing a preliminary application. This statement reads, in pertinent part, "Do not make any changes on this application. If the information on the application is different from that on the supporting documents, you must be able to explain the difference to the immigration officer during the interview."

At the time of entry into the United States, the applicant's Form I-700 application indicated employment for 90 plus man-days for [REDACTED] in Dayton, Washington from May 1985 to March 1986.

The supporting documentation submitted by the applicant, however, does not correspond to the claim on the I-700 application presented at the border. Specifically, the applicant submitted a Form I-705 affidavit claiming 64 man-days of employment harvesting onions from [REDACTED] in Walla Walla, Washington from February 15, 1986 to April 21, 1986. The applicant failed to explain this discrepancy. He submitted another I-705 affidavit from [REDACTED] who indicated that the applicant worked 51 man-days picking asparagus from May 7, 1985 to June 25, 1985.

Line 4 of the I-700 application is designated for any other names under which the applicant worked. The applicant explicitly stated "N.A." indicating that no other names were used.

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, [REDACTED] informed the Service that his father had all of his employee records and that the applicant was not one of his employees. He further stated that his father would never refer to himself as [REDACTED]

The director denied the application on July 3, 1991, because of the adverse evidence and the fact that the claim of employment for [REDACTED] was less than 90 days in duration. On appeal, the applicant requested a copy of his legalization file. Subsequent to receiving the copy of the record, the applicant submitted a letter in which he claimed to have used the aliases [REDACTED] and [REDACTED] while working for [REDACTED] and [REDACTED]. The applicant submitted a letter from [REDACTED] who stated [REDACTED] worked for him for four months during 1986; a letter from [REDACTED] who stated that the applicant worked for [REDACTED]

using the name [REDACTED], an affidavit of identity regarding the applicant signed by [REDACTED] and, an affidavit regarding the applicant's identity signed by [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.) June 15, 1989.

On his application, the applicant claimed employment for 90 plus man-days for [REDACTED] from May 1985 to March 1986. On his supporting documentation the applicant claimed employment for 64 man-days for [REDACTED] from February 15, 1986 to April 21, 1986. [REDACTED] indicated that the applicant worked 51 man-days from May 7, 1985 to June 25, 1985. The applicant has asserted that he worked as claimed for all three employers. However, the applicant has not addressed the fact that the purported employment for [REDACTED] Jr. and [REDACTED] falls within the time frame that the applicant claimed he was working [REDACTED]

The applicant claims to have performed additional work under the name [REDACTED] and [REDACTED]. However, the applicant had indicated on the I-700 application that he used no other name but [REDACTED]. On appeal, the applicant asserts that the person who helped him to fill out the Form I-700 did not ask him if he had ever used any other names while working in the United States. Nonetheless, the applicant signed the Form I-700 and certified it was true; therefore, the applicant's explanation for this discrepancy is insufficient. The applicant submitted a letter from [REDACTED] who stated that [REDACTED] worked for him for four months during 1986. There is no evidence in the record that [REDACTED] and the applicant is one and the same person. Further, the applicant claimed employment for [REDACTED] possibly [REDACTED] for eleven, not four months as stated by [REDACTED]. The adverse evidence acquired by the Service regarding [REDACTED] renders that claim highly questionable. These inconsistencies and facts make the applicant's overall claim highly questionable. 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.