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U.S. Citizenship
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FILE:



Office: TEXAS SERVICE CENTER

Date: JUN 29 2006

XLT-88-173-1076

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, Southern Regional Processing Facility. The case was then reopened and denied again by the Director, Texas Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

Although the record contains Form G-28, Notice of Entry of Appearance as Attorney or Representative, the organization Servicios Migratorios [REDACTED] is not recognized as an accredited representative.

The facility director denied the application because the applicant did not file a complete application in a timely manner. The center director denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the statutory period.

In response to the second Notice of Decision, the applicant stated that he could not submit a Form I-705 affidavit because [REDACTED] his employer had passed away. The applicant did submit an earlier letter from [REDACTED] who stated that the applicant worked on his farm from May 1985 to February 1986 picking cotton. However, [REDACTED] did not specify the number of man-days worked.

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 over 90 man-days employment cultivating cotton for [REDACTED] from May 1985 to February 1986. The applicant did not submit any supporting documentation.

The directors denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the statutory period.

An applicant may establish employment by submitting numerous documents such as government records, agricultural producer records, farm labor contractor records, receipts, labor union identifications and affidavits which may be sworn under oath. See 8 C.F.R. § 210.3(c)(3). In the instant case, the unsworn letter from [REDACTED] attesting to the applicant's employment fails to identify the number of man-days the applicant worked from May 1985 to February 1986, and therefore is of no probative value to the applicant's claimed eligibility.

On appeal, the applicant has not established the number of man-days worked between May 1985 and February 1986. Therefore, it cannot be concluded that the applicant worked the required minimum of 90 man-days during the eligibility period May 1, 1985 to May 1, 1986. Consequently, the applicant is statutorily 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.