

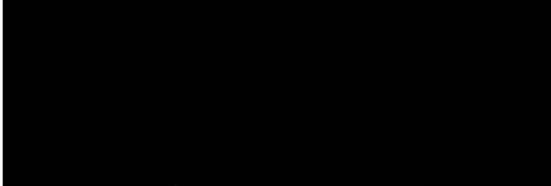
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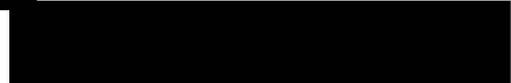
Office: CALIFORNIA SERVICE CENTER

Date:

MAR 03 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, 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 determination was based on information obtained by Citizenship and Immigration Services (CIS), formerly the Immigration and Naturalization Service (INS), regarding the applicant's claimed employment for [REDACTED] at [REDACTED].

On appeal, the applicant stated that he did not keep any records from the supervisors he worked for because he was a temporary worker.

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 to have harvested grapes for 148 man-days from September 9, 1985 to March 1986 for farm labor contracto [REDACTED] at [REDACTED] in Bakersfield, California.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter, both signed by [REDACTED].

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. On November 30, 1988, [REDACTED], personnel clerk for [REDACTED] Company, confirmed that [REDACTED] had worked as a farm labor contractor for [REDACTED] and provided the Service with Mr. [REDACTED] dates of employment. According to Ms. [REDACTED] worked for [REDACTED] from January 1, 1985 to February 9, 1985 and again from April 1, 1985 to September 7, 1985. Mr. [REDACTED] was not employed by [REDACTED] during 1986.

The applicant claimed employment with Mr. [REDACTED] a [REDACTED] from September 9, 1985 to March 1986. This employment falls outside the time period when Mr. [REDACTED] worked at [REDACTED]. As such, the applicant's claim is deemed not credible.

On August 15, 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. In response to the Service's notice, the applicant revised his employment claim and submitted a Form I-705 affidavit claiming 90 man-day of employment harvesting grapes for [REDACTED] at [REDACTED] from January 1, 1985 to September 30, 1985.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on October 10, 1991. On appeal, the applicant stated that he did not retain records of his employment.

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 personnel clerk at Superior Farming Company confirmed that [REDACTED] did not work for that concern after September 7, 1985. The applicant has seriously impaired his credibility by maintaining that he worked at [REDACTED] until March 1986, but submitting no credible documentary evidence in support of this contention. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant's claimed employment for [REDACTED] contains four months of purported employment which are not within the qualifying period (January through April) and claims employment in September which overlaps the applicant's claim of employment for [REDACTED]. As such, this claim does not demonstrate that the applicant worked 90 man-days during the qualifying period beginning May 1, 1985.

The applicant has failed to establish credibly 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.