

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

44

PUBLIC COPY



FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

MAR 31 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

U

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 concluded the documentation submitted did not satisfy the applicant's burden of proof of having performed qualifying agricultural employment. This conclusion was purportedly based on derogatory evidence obtained from Service attempts to verify the applicant's claimed employment for [REDACTED]

On appeal, the applicant stated that she worked at [REDACTED] and that this employment could be verified. The applicant stated that she worked at a different location and that her husband is still employed there.

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 152 man-days harvesting lettuce and greens for [REDACTED] at [REDACTED] from November 1, 1985 to April 15, 1986.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter signed by [REDACTED] who indicated he was the foreman and grower at [REDACTED]. The applicant also submitted evidence of residence and a letter regarding more recent non-qualifying employment.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. On November 22, 1989, in the presence of a Service officer, [REDACTED] gave a sworn statement in which he admitted that he had knowingly created fraudulent employment affidavits for several individuals, and further stated "I have never supplied a true affidavit confirming seasonal agricultural employment . . ." Mr. [REDACTED] stated that his employment at [REDACTED] had been from 1966 to 1975.

On June 21, 1990, 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 to the notice from the applicant.

The director determined that the applicant had failed to overcome the adverse evidence, and denied the application February 21, 1991. On appeal, the applicant stated that she worked at [REDACTED] and that this employment could be verified. The applicant stated that she worked at a different location and that her husband is still employed there. The applicant did not submit any additional evidence to corroborate her claim on appeal.

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.)*.

admitted that he has never signed a true employment affidavit, and that he left the employ of in 1975. The applicant has not overcome such derogatory evidence which directly contradicts her claim. Although the applicant claims on appeal that evidence of her employment is available, no such documentary evidence has been forthcoming. 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.