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U.S. Citizenship
and Immigration
Services

LL

FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **OCT 20 2005**

IN RE:

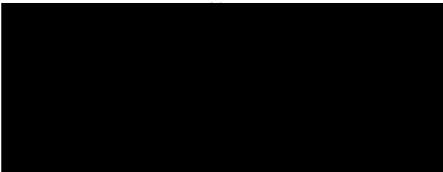
Applicant:



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:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 decision was based on adverse information acquired by the Service relating to the applicant's claim of employment for [REDACTED] at [REDACTED].

On appeal, the applicant stated that he was unjustly put in deportation proceedings.

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 146 man-days of qualifying agricultural employment for [REDACTED] inc. in Imperial County, California from September 2, 1985 to February 26, 1986.

In support of his claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment affidavit, both purportedly signed by [REDACTED] who indicated that the applicant was paid in cash.

In the course of attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. In a letter dated December 28, 1988, [REDACTED] General Manager of [REDACTED], informed the Service that [REDACTED] does not exist. Mr. [REDACTED] explained that the name [REDACTED] derived from [REDACTED] and [REDACTED] the names of the company president's three daughters. Mr. Durrett stated categorically that "(a)ny documents that have been signed by a Mr. [REDACTED] are falsified documents." Mr. [REDACTED] added that all employees were paid by check.

On April 2, 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. The notice was returned to the Service marked attempted-not known even though it was sent to the applicant's most current address of record at the time. The applicant was subsequently provided with a copy of the record of proceedings containing the notice.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on July 9, 1991. The notice was returned to the Service marked no such number. On appeal, the applicant stated that he was wrongly arrested and put in deportation proceedings even though he is a temporary resident under the "SAW" program.

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.).

The applicant has severely diminished his credibility by submitting documents allegedly signed by an individual who has been shown not to exist. The applicant has not submitted any credible evidence which would refute the

statement of the General Manager of [REDACTED] who informed the Service that there is no such person as John Kelomar. 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.