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U.S. Citizenship
and Immigration
Services

L6



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

On appeal, the applicant reaffirms his claimed employment.

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 96 man-days harvesting strawberries for [REDACTED] in Santa Barbara County, California from May 1985 to May 1986.

In support of the claim, the applicant submitted a Form I-705 affidavit, signed by [REDACTED] who stated that he was a sharecropper. Mr. [REDACTED] confirmed the applicant's job was to harvest strawberries. The applicant also submitted a letter of more recent non-qualifying employment.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. Specifically, [REDACTED] owner of [REDACTED] Farm, stated in a letter to the Service that [REDACTED] was not a sharecropper for [REDACTED] Farms in 1985. Moreover, in 1986, Mr. [REDACTED] employed only two persons, in addition to himself, and the harvesting of strawberries did not begin until late February or early March. Even if the applicant had been one of the two employees, he could not have harvested strawberries for the requisite 90 man-days before the end of the qualifying period.

On October 29, 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.

It is noted that the director stated that Mr. [REDACTED] employed two workers including himself. While this statement is not entirely accurate, it remains that the notice of intent to deny was not founded on the number of workers employed by Mr. [REDACTED].

In response to the Service's notice, the applicant submitted two letters of residence in the United States and a letter of more recent non-qualifying employment.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application on December 20, 1991. On appeal, the applicant reaffirmed his claimed 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. S-87-1064-JFM (E.D. Cal.)*.

According to [REDACTED] was not a sharecropper during the 1985 strawberry harvest, and the 1986 harvest did not begin until late February or early March. The applicant has not overcome this derogatory information which directly contradicts the applicant's claim. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

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.