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U.S. Citizenship
and Immigration
Services

LL



FILE:



Office: CALIFORNIA SERVICE CENTER

Date: SEP 19 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 (SAW) was denied by the Director, California Service Center. The matter is before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In the decision of denial, 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. The decision was based on evidence adverse to the applicant's claim of employment for [REDACTED]

On appeal, the applicant stated that he had no idea why his application was denied as he had not received a notice of intent to deny his application. The applicant's employment claim and the evidence are addressed below.

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 145 man-days employment for [REDACTED] at [REDACTED] California from May 1985 to May 1986.

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

On October 23, 1992, in a Notice of Intent to Deny, the Service attempted to inform the applicant that the signatures on the applicant's supporting documents were visibly and significantly different from authentic exemplars of [REDACTED] signature obtained by the Service. Further, the notice indicated that the applicant's name was not included in a listing of employees who were issued employment documents by Mr. [REDACTED]. 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. Thus, the applicant's failure to receive the notice was due to his failure to inform the Service of his correct mailing address.

The record reveals that, February 11, 1993, the applicant inadvertently filed a Notice of Appeal of Decision subsequent to the issuance of the Notice of Intent to Deny, but prior to the issuance of the Notice of Decision and that the appeal was accepted for processing and fee registered. Thereafter, the AAO remanded the case for a decision.

On July 19, 2004, the Director, California Service Center, denied the application. The applicant did not submit any additional statements or evidence in response to the issuance of the Notice of Decision.

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.

The information provided by [REDACTED] and noted by the director calls into question the origin and authenticity of the applicant's documentation. The applicant has not overcome this derogatory evidence. 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.